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U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: [Redacted] Office: National Benefits Center Date: APR 23 2004

IN RE: Applicant: [Redacted]

APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT: Self-represented

PUBLIC COPY

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.

Robert P. Wiemann, Director
Administrative Appeals Office

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invasion of personal privacy**

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DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the record did not establish the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant states that she already submitted all the evidence she has. She asserted that a letter in the record from the Vermont office of the Immigration and Naturalization Service (INS) "was in reply to my status check with them" and that the I-687 form in the record had been "submitted with my application, together with the supporting documents."

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in one of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("CSS"), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("LULAC"), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) ("Zambrano"). See section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

The regulations provide an illustrative list of documents that an applicant may submit to establish that he or she filed a written claim for class membership before October 1, 2000. Those regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

With her LIFE application (Form I-485) the applicant submitted the following photocopied documents:

- 1) a Form I-687 application for status as a temporary resident under section 245A of the Immigration and Nationality Act (INA), signed by the applicant and dated November 28, 1988;
- 2) a Form for Determination of Class Membership in *CSS v. Meese*, signed by the applicant and dated February 22, 1989, in which she asserted that she did not file an application for legalization (under section 245A of the INA) before the filing deadline of May 4, 1988 because she was told by an INS agent and a QDE (qualified designated entity) employee that she did not qualify; and
- 3) a Legalization Front-Desk Questionnaire, signed by the applicant and dated September 29, 2000, in which she asserted that she tried to file an application for legalization under the Immigration Reform and Control Act of 1986 (IRCA) through a QDE – CPRNA in Bronx, New York – on November 28, 1988, but "was refused" (*i.e.*, "front-desked") and had all of her documents returned with the explanation that "I do not qualify."

The foregoing documents are listed in 8 C.F.R. § 245a.14 as examples of evidence which may be furnished in an effort to establish that an alien filed a claim for class membership. However, there is no record at Citizenship and Immigration Services (CIS), successor to the INS, that any of these documents was actually submitted by the applicant before the statutory filing deadline of October 1, 2000. It should be noted that the date entered next to the applicant's signature on Form I-687 – November 28, 1988 – was more than six months after the May 4, 1988 deadline for filing legalization applications under section 245A of the INA

(IRCA). Thus, the applicant's alleged attempt to file that application through a QDE in November 1988 was not timely in any event. More importantly, there is no evidence that the applicant, after her alleged "front-desking" in 1988, subsequently submitted the I-687 form to the INS with a claim for class membership in CSS at any time prior to October 1, 2000, the deadline for filing late legalization applications under the LIFE Act. The same shortcoming applies to the Form for Determination of Class Membership in *CSS v. Meese*, dated February 22, 1989, and the Legalization Front-Desking Questionnaire, dated September 29, 2000. The applicant has not provided any evidence, such as postal receipts or acknowledgement letters from the agency, that either of these documents was actually submitted to the INS before October 1, 2000. Moreover, if the Legalization Front-Desking Questionnaire had been filed in September 2000, the INS would have opened a file for the applicant at that time and the questionnaire would have been included in it. But CIS (INS) has no record of receiving the questionnaire, or the class membership determination form, or the I-687 until the applicant's LIFE application was filed on September 5, 2002. That was nearly two years after the deadline of October 1, 2000, set in section 1104(b) of the LIFE Act, to file a claim for class membership in CSS or one of the other legalization lawsuits.

For the reasons discussed above, it is concluded that none of the subject documents was filed with the INS before October 1, 2000, as required to constitute a timely claim for class membership in CSS under section 1104(b) of the LIFE Act.

Doubt cast on any aspect of an applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I & N Dec. 582 (BIA 1988).

In response to the director's Notice of Intent to Deny her LIFE application, the applicant submitted a photocopied form letter from the INS office in Vermont (Eastern Service Center), dated June 2, 1992, stating that "we are replying to your letter" and that "[y]our application remains pending for the outcome of litigation in these matters. Once a decision is rendered on the litigation, your application will be processed." A number of factors cast doubt on the authenticity of this letter. The letter does not identify what application was pending in 1992. Thus, there is no way to determine whether it had anything to do with a claim for class membership in CSS. The letter advised the applicant to "include your alien registration number [A-number] or EAC fee receipt number (if available) in all future correspondence with this Center." But the letter did not indicate that the applicant had any A-number at that time (1992). Nor did the applicant indicate any A-number in her subsequent Legalization Front-Desking Questionnaire, allegedly sent to the Vermont Service Center in September 2000. On that document the box for "A" number was left conspicuously blank. In fact, no A-number was assigned to the applicant until she filed her LIFE application in September 2002. CIS (INS) has no record of receiving *any* application from the applicant before then. Lastly, the applicant does not explain why, if the 1992 INS letter were truly in her possession the entire time, she did not submit it until after the director's Notice of Intent to Deny. Applicants were instructed to provide qualifying evidence *with their applications* and the applicant did include other documents with her LIFE application.

For the myriad reasons discussed above, it is concluded that the form letter from INS dated June 2, 1992 is not a true copy of an authentic document.

The applicant has not submitted any further evidence on appeal. Thus, the record fails to establish that the applicant filed a written claim for class membership in CSS, or either of the other two legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000, as required under section 1104(b) of the LIFE Act.

Accordingly, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.