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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]

Office: National Benefits Center

Date: AUG 25 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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. 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

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

The directors concluded the applicant had not established that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant asserts he qualifies for LIFE legalization because he presented an affidavit of circumstances (questionnaire) to the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), before the February 2, 2001 deadline printed on the document, claiming class membership in the lawsuit of *CSS v. Meese*.

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 his LIFE application, the applicant submitted a photocopy of an unsigned and undated Form I-687 Application for Status as a Temporary Resident. He also submitted a copy of a Legalization Front-Desking Questionnaire dated December 8, 2000, in which he claims that an INS officer in Houston, Texas, had refused to accept (*i.e.*, "front-desk") his application for legalization under the Immigration Reform and Control Act of 1986 (IRCA) when he tried to file it during IRCA's one-year filing period from May 5, 1987 to May 4, 1988. The applicant's file does include the *original* of the front-desking questionnaire, which was stamped as received by the INS Vermont Service Center on December 15, 2000. In order to qualify for late legalization under the LIFE Act, however, an alien must demonstrate that he or she had filed a written claim for class membership in one of the legalization lawsuits prior to October 1, 2000. The applicant also submits a letter from the Vermont Service Center of the Immigration and Naturalization Service (INS) dated July 17, 2001, purportedly informing him that the legalization questionnaire and accompanying information that he submitted had been reviewed and that he had established his claim. CIS has no record of having sent this letter to the applicant. Additionally, the letter appears to have been fabricated by the applicant from another sent to him from the Vermont Service Center also dated July 17, 2001 *denying* his claim for class membership after reviewing his questionnaire.

In response to the director's Notice of Intent to Deny (NOID) dated September 8, 2002, the applicant submitted a statement asserting that he qualified as having filed for class membership under section 1104 of the LIFE Act

because he submitted the Legalization Front-Desking Questionnaire before February 2, 2001, as the form specifically instructed. The applicant claimed that the questionnaire (a) was listed in the Federal Register as one of the documents that could demonstrate an applicant's eligibility for class membership in one of the legalization lawsuits, (b) was therefore *ipso facto* proof of the applicant's written claim for class membership, and (c) had its own deadline for submission which the applicant satisfied.

In response to the September 8, 2002 NOID, the applicant asserts that he filed a Legalization Questionnaire with the Vermont Service Center (VSC) prior to the February 2, 2001 deadline. This, he indicates, constitutes a written claim to class membership in one of the LIFE Legalization lawsuits and therefore entitles him to apply for benefits under Section 1104 of the LIFE Act.

The questionnaire and deadline referred to are related to a separate program designed to identify applicants who attempted to apply for legalization during the period of May 5, 1987 to May 4, 1988, but whose applications were rejected or "front-desked." Under this program, the questionnaire was reviewed by the VSC to determine whether the front-desking claim was valid. If it was found to be valid, the applicant was instructed to file a Form I-687, application for temporary residence, with the Texas Service Center. The application was then adjudicated as though filed during the initial filing period.

Submitting a questionnaire to the VSC under this program is not the equivalent of filing a written claim to class membership under one of the LIFE Act related lawsuits, nor does it alter the requirement that the written claim must have been filed prior to October 1, 2000 as stated in the regulations at 8 C.F.R. § 245a.10.

On appeal the applicant resubmits a photocopy of his Legalization Front-Desking Questionnaire. He asserts that the document constitutes conclusive evidence of his written claim for class membership in *CSS* because it is listed both in 8 C.F.R. § 245a.14(a) and on a flyer the INS sent to the applicant entitled "Examples of a Written Documentation for Claim for Class Membership." The applicant also restates his previous argument that the questionnaire was sent to the Vermont Service Center prior to the February 2, 2001 deadline printed on the form. As previously discussed, however, the statutory deadline to file a written claim for class membership in one of the legalization lawsuits was October 1, 2000. *See* section 1104(b) of the LIFE Act. The applicant's Legalization Front-Desking Questionnaire did not meet that statutory deadline because it was not sent to the Vermont Service Center until October 23, 2000. The applicant also submits photocopies of reentry permit and employment authorization document approval notices, argues that his case is identical to their cases and argues that his case should be approved as well.

The applicant objects to the denial of this application in view of the finding of the approval of reentry permits and employment authorizations for two other applicants. CIS is not required to approve applications or petitions where eligibility has not been demonstrated. The AAO is not bound to follow what might be a contradictory decision of a service center. *Louisiana Philharmonic Orchestra v INS*, 44 F.Supp. 2d 800, 803 (E.D. La. 2000), *aff'd* 248 F.3d 1139 (5<sup>th</sup> Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001). Additionally, any finding of class membership in the two cited cases may have been made in error.

The applicant also submitted photocopies, on appeal, of (1) a typewritten Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act) purportedly signed on

January 8, 1994, and (2) a Form for Determination of Class Membership in *CSS v. Reno*. CIS has no record of receiving either of the above two documents from the applicant until the instant LIFE application was filed on April 22, 2002. The applicant has not furnished any evidence, such as a postal receipt or an acknowledgement letter from the INS, that the above forms were filed with the INS on a date before October 1, 2000.

The applicant has furnished no further evidence on appeal that the two documents discussed above were filed with the INS before October 1, 2000. Thus, neither of them can be considered evidence of a timely, and therefore legally valid, claim for class membership.

Based on the entire record in this case, it is clear that the applicant has failed to establish that he filed a written claim for class membership in *CSS*, or either of the other two legalization lawsuits, before October 1, 2000, as required to be eligible for legalization 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.