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



U.S. Citizenship  
and Immigration  
Services

L2



JUL 07 2004

FILE:



Office: MISSOURI SERVICE CENTER

Date:

IN RE:

Applicant:



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

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. Any further inquiry must be made to that office.

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, reopened and denied again by the Director, National Benefits Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director concluded the applicant had not established that she 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 states that she qualifies for LIFE legalization because she filed her legalization questionnaire before February 2, 2001.

An applicant for permanent resident status under 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 any 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 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.

In support of her application, the applicant submitted a copy of a Legalization Front-Desking Questionnaire dated November 22, 2000. The applicant's file does include the *original* of the front-desking questionnaire, which was received by Citizenship and Immigration Services' (CIS) Vermont Service Center on January 29, 2001. Pursuant to the above regulation, an alien would have to demonstrate that he or she had filed a written claim for class membership *prior to October 1, 2000* in order to qualify for late legalization under the LIFE Act.

In response to the Notice of Intent to Deny issued on February 24, 2002, the applicant resubmitted the Legalization front-desking questionnaire provided in support of her application. The applicant also submitted a blank Legalization front-desking questionnaire and a statement in which she cited the LIFE Act provisions. The applicant claimed that she was eligible because she submitted the questionnaire before *February 2, 2001* pursuant to instructions put forth by Citizenship and Immigration Services (CIS).

On appeal, the applicant provided copies of CIS notices that were issued to several applicants regarding the reopening and approval of their LIFE Applications along with a statement in which the applicant cited regulations and instructions for individuals who filed a written claim for class membership and a letter from her attorney attesting to the validity of her claim to class membership. The applicant also provided photocopies of a Form I-687, Application for Status as a Temporary Resident and a Form for Determination of Class Membership in *CSS v. Reno*. These documents, as well as the above mentioned questionnaire, are listed in 8 C.F.R. § 245a.14 as examples of documents which may be furnished in an effort to establish that an alien had previously applied for class membership. Although both the Form I-687 and the determination form are dated December 14, 1993, there is nothing to indicate that either document was ever filed or was ever received by CIS. If the applicant truly had these copies in her possession since 1993, it would seem logical

she would have furnished them with the questionnaire which was submitted on January 29, 2001. Moreover, the applicant does not explain *why*, if these documents were truly in her possession the entire time, she did not submit them with her subsequent LIFE application, or in rebuttal to the Notice of Intent to Deny, as applicants were advised to provide evidence *with* their applications. It is concluded that such photocopies, furnished at a very late stage of these proceedings and unaccompanied by any reasonable explanation, do not establish that there were original documents which were actually submitted to CIS in 1993.

In response to the Notice of Intent to Deny issued on May 28, 2003, the applicant reaffirmed her claim for class membership in *LULAC v. INS* because she submitted the questionnaire before February 2, 2001. This, the applicant indicates, constitutes a written claim to class membership in one of the LIFE Legalization lawsuits and therefore entitles him (the applicant) 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 8 C.F.R. § 245a.10.

Here, in the current proceeding, the applicant has not applied for class membership in a lawsuit but rather has applied directly to CIS for permanent residence under the LIFE Act. The basic statutory requirement of having filed for class membership by October 1, 2000 must still be met in all LIFE cases, regardless of the other previously authorized administrative deadline established for filing questionnaires.

Given her failure to document that she filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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