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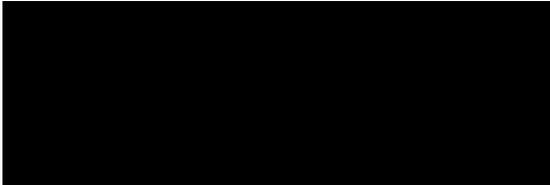
JUN 01 2004

FILE:  Office: National Benefits 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:



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

**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 applicant had not established 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, counsel submits a brief and some photocopies of documents that were already in the record. Counsel asserts in his brief that the applicant fulfilled the requirement of filing a timely claim for class membership. Counsel refers to a one-page document sent by the director to the applicant in 2002 entitled "Examples of a Written Documentation for Claim for Class Membership," and contends that the applicant has submitted documentation satisfying item 5 on the list, which reads: "Denial letter, from a Local/District Office, for failure to show for a requested second interview in connection with your legalization application." Counsel cites a decision issued by the Immigration and Naturalization Service (INS), Southern Service Center, on June 29, 1993, that denied the applicant's application for temporary resident status under section 245A of the Immigration Reform and Control Act of 1986 (IRCA) because "you failed to appear for your scheduled interview after four (4) notices were mailed to you by the Service." Counsel also cites two earlier letters from INS to the applicant which reference her four missed appointments in detail. The first letter, dated December 29, 1988, advised the applicant that "[y]ou have been scheduled to appear twice at the Legalization Office for your interview and you failed to appear at either appointment." The second letter, dated July 18, 1991, rescheduled an interview originally been set for January 9, 1991 to August 6, 1991.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that he or she before October 1, 2000 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.

The record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, on April 28, 1988, as the first step in seeking legalization under section 245A of the Immigration and Nationality Act (INA). Section 245A had been added to the INA in 1986 by IRCA, *supra*. The I-687 application was denied by the Southern Service Center on June 29, 1993 after the applicant failed to appear for a scheduled interview on four separate occasions and failed to submit sufficient documentary evidence in support of the application, thus making it impossible to verify that she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status until the date the application was filed (April 28, 1988), as required in the Act and its implementing regulations. See 8 C.F.R. § 245a.2(b).

The INS decision of June 29, 1993, denying the I-687 application (and referring to the four missed interview appointments), does not relate to any claim for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, or to the applicant's current I-485 application, filed in June 2002, for legalization under the LIFE Act. Likewise, the INS letters in 1988 and 1991, discussing the missed interviews in connection with the I-687 application, do not relate to any class membership claim or to the applicant's I-485 application for legalization under the LIFE Act. There is no record that the applicant was scheduled for any interview(s) in connection with a claim for class membership or her current legalization application under the LIFE Act, and the decision of the Missouri Service Center denying her

application did not mention missed interviews as one of the grounds for denial. Thus, the materials submitted by counsel on appeal, in particular the INS decision of June 29, 1993 denying the applicant's I-687 application, relate to an earlier legalization proceeding under an earlier law (IRCA). They do not document a claim for class membership by the applicant in one of the legalization class action lawsuits, as required for an alien to be eligible for permanent resident status under section 1104(b) of the LIFE Act.

In her current I-485 application the applicant did not even assert that she filed a claim for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*. Nor has she submitted any documentary evidence in this proceeding that she filed a claim for class membership in one of those lawsuits. Since the applicant had a pre-existing A-file from her earlier I-687 application, any written claim for class membership in one of the legalization lawsuits would almost certainly have been incorporated in the file. But there was no such class membership claim or even a reference to *CSS*, *LULAC*, or *Zambrano* in the applicant's file when the instant LIFE application was filed on June 7, 2002.

Thus, the record fails to establish that the applicant filed a written claim for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, before October 1, 2000, as required for her to be eligible for legalization under section 1104(b) 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.