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U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Citizenship
and Immigration
Services

[Redacted]

MAR 16 2004
Date:

FILE: [Redacted] Office: NATIONAL BENEFITS CENTER

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. The file has been returned to the National Benefits Center. If your appeal was sustained, or if your case 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, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director 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, counsel asserts that the applicant should be considered a class member because he attempted to file an application for temporary residence under section 245A of the Immigration and Nationality Act (INA) during the application period, but was turned away by a Service (now Citizenship and Immigration Service, or CIS) employee. Counsel claims that the applicant also submitted a questionnaire qualifying him as a class member although no copy was kept and no fee was submitted.

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.

The applicant failed to include any relevant documentation with his LIFE Act application. In response to the notice of intent to deny, counsel submitted a "Form for Determination of Class Membership in CSS v. Meese," that is signed by the applicant and dated May 28, 1992. However, while such a document could possibly be considered as evidence of having made a written claim for class membership, this submission does not include a CIS Alien Registration Number, otherwise known as a A-number or file number, for the applicant, as required in 8 C.F.R. § 245.14(b). Furthermore, there is no record of CIS receiving the document listed above prior to the submission of his response to the notice of intent to deny on November 1, 2002. In addition, the fact that the "Form for Determination of Class Membership in CSS v. Meese," is an original document that is hand-written in ink only serves to undermine the credibility of any claim that this form was ever submitted to CIS prior to the applicant's response. Moreover, neither the applicant nor counsel offered any explanation as to why, if the applicant truly had this document referencing his purported claim to class membership in his possession since at least May 28, 1992, he did not submit it with his LIFE Act application. Applicants were instructed to provide qualifying evidence with their applications and the applicant did include other supporting documentation with his LIFE Act application.

Counsel asserts that the applicant should be considered a class member because he was front-desked by a CIS employee when attempted to file an application for temporary residence under section 245A of the INA. While the applicant may have been front-desked (informed that he was not eligible for legalization) when he attempted to file a legalization application, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits. Furthermore, the fact the "Form for Determination of Class Membership in CSS v. Meese," is an original document seemingly contradicts counsel's claim that this questionnaire had been previously submitted to CIS prior to the response to the notice of intent to deny.

The record reflects that all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. Given his failure to document that he timely filed a

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.