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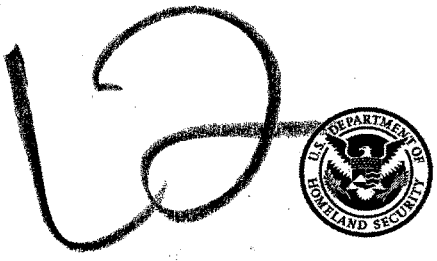

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: NATIONAL BENEFITS CENTER Date: MAR 18 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

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.

for

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 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, the applicant states that he has submitted documentation establishing prima facie evidence that he had requested class membership. According to the applicant, he has not received any specifics on why he is being denied or what part of his documentation is not acceptable. The applicant requests that his application be given further consideration.

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 applicant failed to submit any documentation addressing this requirement when the application was filed. In response to a notice of intent to deny, the applicant provided a photocopy of a letter dated September 21, 2000, supposedly sent to former Attorney General Reno, requesting that the applicant be registered in the *Zambrano* case. Pursuant to 8 CFR § 245a.10, a *written claim for class membership* means a filing, in writing, in one of the forms listed in § 245a.14 which provides the Attorney General with notice that the applicant meets the class definition in the cases of *CSS*, *LULAC* or *Zambrano*. The letter does not constitute a "form" and does not equate to the actual forms listed in 8 CFR § 245a.14, although that regulation also states other "relevant documents" may be considered. However, the very brief letter does not even begin to imply that the applicant could qualify for *Zambrano* class membership as it does not provide any relevant information upon which a determination could be made.

Moreover, the applicant does not explain *why*, if this letter were truly in his possession the entire time, he did not submit it with his LIFE application, as applicants were advised to provide evidence *with* their applications. In addition, it must be noted that the applicant is one of many aliens who did not furnish such identically-worded letters in the same typeface (virtually all dated from September 14th to September 25th, 2000) with their LIFE applications, and yet provided them only upon receiving letters of intent to deny. It is further noted that all of these aliens had their LIFE applications prepared by Professional Tax Service, Santa Maria, California. In addition, none of these aliens have provided any evidence, such as postal receipts, which might help demonstrate that the letters were actually sent to the Attorney General. Given the importance of the letters, it would be reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail.

It should also be noted that the statements on appeal submitted by these aliens, all of whom assert that they are not represented by counsel, are identical. These factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

Doubt cast on any aspect of the evidence 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. See *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

On appeal, the applicant claims that he provided information regarding his request for class membership but has not been given any specifics as to why his application was denied. However, there is nothing in the record to indicate that he filed an actual claim for class membership. Furthermore, he was sent a Notice of Decision, which specified why the application was being denied.

An examination of the record of proceedings indicates that the applicant had previously filed a timely application for temporary resident status as a special agricultural worker (SAW) under section 210 of the INA on October 18, 1988, and the application was subsequently denied on November 8, 1991. In any case, an application for SAW status does not constitute an application for class membership in any of the legalization class-action lawsuits. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

Given his failure to establish that he 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.