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U.S. Citizenship
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Services

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LA

MAR 23 2004

FILE: [Redacted]

Office: National Benefits Center

Date:

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.

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

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.

In support of his application, the applicant submitted a copy of a Legalization Front-Desking Questionnaire, along with a photocopy of a certified mail receipt of the U.S. Postal Service indicating that the questionnaire was mailed from Houston on November 3, 2000, and received by the INS office in St. Albans, Vermont, on November 7, 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 November 7, 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 prior to October 1, 2000.

In response to the director's notice of intent to deny, 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 on a flyer the INS sent to the applicant entitled "Examples of a Written Documentation for Claim for Class Membership," (b) was therefore *ipso facto* sufficient proof of the applicant's written claim for class membership in *CSS*, and (c) had its own deadline for submission which the applicant satisfied.

The February 2, 2001 deadline to which the applicant refers appeared in CIS instructions that were issued *prior* to the passage of the LIFE Act. Those instructions related only to the February 2, 2001 deadline for attempting to obtain class membership in the legalization class-action lawsuits. The aliens who acquired class membership will eventually be notified as to how they may proceed under the litigated settlement. That settlement is entirely outside the scope of this current proceeding under the LIFE Act.

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. Since the applicant's Legalization Front-Desking Questionnaire was not submitted to the Vermont Service Center until November 2000, under the LIFE Act it is not evidence of a timely, and therefore legally valid, claim for class membership in *CSS*.

In response to the notice of intent to deny, the applicant also submitted photocopies of a Form I-687, Application for Status as a Temporary Resident (Under Section 245A of the Immigration and Nationality Act), 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 evidence which may be furnished in an effort to establish that an alien had previously applied for class membership. Although the Form I-687 and the class membership determination form are both dated February 15, 1994, the applicant has not demonstrated that he ever filed those documents with INS. Nor does CIS, as successor to INS, have any record of receiving the documents prior to the instant LIFE Act proceeding. *If the applicant truly had these copies in his possession since 1994, he would presumably have furnished them to INS along with the questionnaire that INS received on November 7, 2000.* Moreover, the applicant does not explain *why*, if these documents were truly in his possession the entire time, he did not submit them with his subsequent LIFE application, as applicants were advised to provide evidence *with* their applications.

Furthermore, the very questionable documents are the same documents provided by numerous other applicants who did not disclose their actual addresses on their LIFE applications, but rather showed the same P.O. Box in Houston. These aliens do not claim to be represented, and yet they all file the same lengthy statements in rebuttal and/or on appeal. All of these factors raise grave questions about the authenticity of the documents.

Doubt cast on any aspect of an applicant's proof 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. *Matter of Ho*, 19 I & N Dec. 582 (BIA 1988).

The applicant provides no additional evidence on appeal that either the I-687 form or the class membership determination form was actually prepared and submitted to CIS in February 1994. Based on the entire record, it is concluded that the photocopied I-687 and class membership determination forms submitted by the applicant in this LIFE Act proceeding do not establish that there were original documents which were actually submitted to INS in 1994.

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 deadline because it was not sent to the Vermont Service Center until November 2000.

Given his failure to establish that he filed a timely written claim for class membership in *CSS*, or either of the other two legalization lawsuits, 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.