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U.S. Citizenship
and Immigration
Services

[redacted]

FILE: [redacted] Office: National Benefits Center Date: MAR 29 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.

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, the applicant asserts that she 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*. The applicant also asserts that other individuals in similar situations had their applications approved.

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.

With her LIFE application the applicant submitted a copy of a Legalization Front-Desking Questionnaire, dated November 2, 2000, in which she claims that an INS officer in Houston, Texas, had refused to accept (*i.e.*, "front-desked") her application for legalization under the Immigration Reform and Control Act of 1986 ("IRCA") when she tried to file it during IRCA's one-year filing period from May 5, 1987 to May 4, 1988. The applicant's initial file [redacted] does include the *original* of the front-desking questionnaire, which was stamped as received by the INS Vermont Service Center on January 31, 2001. 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 in one of the legalization lawsuits prior to October 1, 2000.

In response to the director's notice of intent to deny, the applicant submitted a statement asserting that she qualified as having filed for class membership under section 1104 of the LIFE Act because she 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* 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 January 2001 (or November 2000 at the earliest), under the LIFE Act it is not evidence of a timely, and therefore legally valid, claim for class membership in *CSS*.

In support of her LIFE application the applicant also submitted a photocopied Form I-687, Application for Status as a Temporary Resident under IRCA (Under Section 245A of the Immigration and Nationality Act), signed by her but undated, along with a certified mail receipt of the U.S. Postal Service indicating (without additional details) that something was mailed from Houston on January 26, 2001, and received by the INS (Vermont Service Center) on January 29, 2001. Thus, there was no evidence accompanying the LIFE application indicating that the Form I-687 was filed with INS before October 1, 2000.

In response to the notice of intent to deny the applicant resubmitted a photocopied Form I-687, which appears identical to the I-687 previously submitted except that it contains an entry in the "date" box of January 15, 1994. The applicant provides no explanation as to why the I-687 previously submitted did not include that date. This omission raises obvious doubts about the document's authenticity. The applicant also submitted a photocopied Form for Determination of Class Membership in *CSS v. Reno*, signed by her and likewise dated January 15, 1994. She provided no evidence, however, that the class membership determination form or the I-687 form were actually sent to INS in 1994. Nor does CIS, as successor to INS, have any record of receiving the documents prior to the instant LIFE Act proceedings, which commenced in May 2002. *If the applicant truly had these copies in her possession since 1994, she would presumably have furnished them to INS along with the questionnaire that INS received on January 31, 2001.* Moreover, the applicant does not explain *why*, if these documents were truly in her possession the entire time, she did not submit *both* of them with her subsequent LIFE application, as applicants were advised to provide evidence *with* their applications.

Furthermore, the documents submitted by the applicant in this proceeding are the same as those provided by numerous other LIFE Act applicants who did not disclose their actual addresses on their 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. These factors raise grave questions about the authenticity of the subject 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 her Legalization Front-Desking Questionnaire. She asserts that the document constitutes conclusive evidence of her 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 her 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 statutory deadline because it was not sent to the Vermont Service Center until November 2000, or January 2001.

The applicant's last contention is that two other individuals in similar situations had their applications approved after originally being denied. The applicant has submitted copies of Service Motions to Reopen and Reconsider those cases in which the CIS approved Form I-765 and Form I-131 applications for the respective applicants. Those approvals were for employment and travel authorization, however, not permanent resident status under the LIFE Act. The applicant has furnished no evidence that either of those applicants filed a Form I-485 LIFE application. Thus, the cases cited by the applicant, and the rulings issued thereon, have no bearing upon the LIFE application at issue here.

Based on the entire record in this matter, it is clear that the applicant has failed to established that she filed a written claim for class membership in *CSS*, or either of the other two legalization lawsuits, before October 1, 2000, as required to be eligible for legalization under section 1104(b) of 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.