

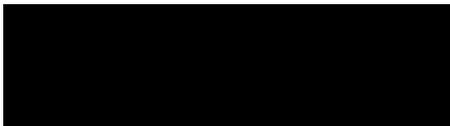
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U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy



MAY 04 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:

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 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 sustained.

The director concluded the applicant had not established that 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 is eligible for permanent resident status under the LIFE Act because she applied for class membership in a legalization class-action lawsuit. The applicant provides photocopies of previously submitted documentation in support of this assertion.

It is noted that although a Notice of Entry of Appearance as Attorney of Representative (Form G-28) has been submitted, the individual is not authorized under either 8 C.F.R. § 292.1 or 292.2 to represent the applicant. Therefore, this decision will be furnished to the applicant only.

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.

With her LIFE Act application, the applicant included a statement in which she asserted that she was eligible for permanent residence under the provisions of the LIFE Act. The applicant indicated that she had previously filed a written claim for class membership with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS), and that the Service had assigned the receipt number "EAC 9101080505" to her regarding such claim for class membership.

In response to the notice of intent to deny, the applicant submitted the following:

- a photocopy of an appointment notice dated July 25, 1991, from the Service's Houston Legalization office that contains the applicant's last name, date of birth, and address which scheduled her for an interview at 8:00 A.M. on March 23, 1992, regarding the late filing of a legalization application under either the *CSS* or *LULAC* case, and;
- a Form I-797, Notice of Action, dated October 9, 1991, from CIS's Vermont Service Center informing the applicant that a previously scheduled interview to determine eligibility for class membership under *CSS/LULAC* would be cancelled and rescheduled for another date. This notice is an original document bearing the applicant's name, address, and the receipt number "EAC 9101080505."

While the director did note that the applicant submitted the documents listed above in the subsequent notice of denial, he merely concluded that a search of relevant records revealed no indication that such documents had ever been issued by the Service to the applicant, or that such receipt number had been assigned to the applicant by the Service. However, the director failed to note that Form I-797 dated October 9, 1991, is an original document. Furthermore, if the director had questions regarding the credibility of the photocopied appointment notice dated July 25, 1991, he could have requested that the original of the photocopied

document be submitted. The director did not establish that the information in the supporting documents was inconsistent with the claims made within the application, or that such information was false. The applicant's own testimony taken in context with supporting evidence in certain cases can logically meet the preponderance of evidence standard. As stated in *Matter of E--M--*, 20 I. & N. Dec. 77 (Comm. 1989), when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. Clearly, the supporting documents are relevant documents under 8 C.F.R. § 245a.14. As such, the applicant's claim to class membership must be considered in light of her own testimony and evidence.

The independent and contemporaneous evidence contained in the record supports the applicant's assertion that she put forth a claim to class membership to the Service in 1991. Therefore, it must be concluded that the applicant has demonstrated that she filed a written claim to class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000.

It must now be determined whether the applicant is otherwise eligible for permanent resident status under section 1140 of the LIFE Act. Accordingly, the matter will be forwarded to the appropriate district office for further processing and adjudication of the LIFE Act application.

**ORDER:** The appeal is sustained. The director shall forward this matter to the proper district office for the completion of adjudication of the application for permanent residence.