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U.S. Citizenship
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MAY 04 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 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 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 reiterates his claim that he previously filed for class membership. The applicant includes photocopies of previously submitted documentation in support of his appeal.

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 inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. See 8 C.F.R. § 245a.12(e). An alien applying for adjustment of status under section 1104 of the LIFE Act has the burden of proving his or her eligibility by a preponderance of the evidence.

As a part of his LIFE Act application, the applicant submitted a separate Application for Employment Authorization, in which he indicated that he had previously attempted to apply for class membership in the CSS lawsuit at the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) office on Soto Street in Los Angeles, California, but he was subsequently denied membership in this class-action lawsuit. In support of his claim to class membership, the applicant included a photocopy of a Service appointment notice apparently dated April 18, 1996, which reflects that he was to appear at the Soto Street office on August 20, 1996, in order to submit a legalization application for temporary residence under section 245A of the Immigration and Nationality Act (INA) as a "CSS vs Thornburgh" or "LULAC vs INS" class member.

In response to the notice of intent to deny the applicant submitted additional documentation in support of his claim that he had previously attempted to apply for class membership in the CSS lawsuit. The applicant submitted photocopies of the following new documents:

- a completed Form I-687 legalization application that is signed by the applicant and dated October 15, 1994;
- an undated "Form for Determination of Class Membership in CSS v. Meese" that is signed by the applicant;

- a "Corroborative Affidavit" that is both dated and notarized on October 15, 1994, in which the affiant, [REDACTED] attested to the circumstances establishing the applicant's eligibility for class membership; and,
- a Service notice bearing the applicant's name that is dated September 5, 1996, which informed him that he had failed to establish eligibility for membership in one of the requisite legalization class-action lawsuits.

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 he had ever submitted such documents to the Service. If the director had questions regarding the credibility of any supporting documents provided by the applicant, he could have requested that originals of photocopied documents 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 his own testimony and evidence.

The independent and contemporaneous evidence contained in the record supports the applicant's assertion that he put forth a claim to class membership when he appeared at the Service's Soto Street office in Los Angeles, California in August of 1996. Therefore, it must be concluded that the applicant has demonstrated that he 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.