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U.S. Citizenship
and Immigration
Services

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LA

MAY 06 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 originally denied by the Director, Missouri Service Center, and subsequently remanded by the Administrative Appeals Office (AAO). The matter has been certified to the AAO. This decision will be withdrawn, and the appeal will be sustained.

In both decisions, 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 from the director's initial decision, the applicant submitted a separate statement in which he asserted that he is eligible for permanent resident status under the LIFE Act as one who has filed a written claim for class membership under the LULAC class-action lawsuit.

On appeal from the director's subsequent decision, the applicant asserts that the photocopied interview notice he had previously submitted supports his claim to have applied for class membership in LULAC.

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.

Along with his LIFE application, the applicant provided a photocopy of a Form G-56 appointment notice dated September 9, 1991, reflecting that on October 8, 1992 at 1:00pm, the applicant would be interviewed at the Miami, Florida District Office of the Immigration and Naturalization Service or INS (now, Citizenship and Immigration Services, or CIS), regarding the question of his eligibility for class membership in the LULAC legalization class-action lawsuit.

Subsequently, in response to the director's initial notice of intent to deny, the applicant submitted affidavits from three acquaintances, all of whom attest to having accompanied the applicant when he initially applied at the Miami District Office for class membership in LULAC. Two of the affiants, [REDACTED] also provide photocopied interview notices dated September 9, 1991.

Pursuant to 8 C.F.R. § 245a.14(b), an applicant may submit, as evidence of having filed for class membership, a CIS document addressed to him or her acknowledging class membership. In providing a photocopy of the aforementioned appointment notice from the Miami, Florida District Office with his LIFE application, the applicant has provided appropriate evidence of having filed a timely written claim for class membership in the CSS legalization class-action lawsuit, as set forth in 8 C.F.R. § 245a.14(b).

The documentation submitted by the applicant initially and throughout the application process appears to be consistent and convincing and serves to corroborate his claim. The director did not establish that the information in the supporting documents was inconsistent with the claims made either on the application or in the rebuttal statement, 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 three supporting affidavits provided by the applicant in response to the director's notice of intent 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 such 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. 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 decision is reversed; the appeal is sustained.