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U.S. Citizenship
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Services

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[redacted]

MAY 2 - 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, National Benefits 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 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 applied in 1990 for class membership in the *CSS* lawsuit, *infra*, had two appointments at an Immigration and Naturalization Service (INS) office in Los Angeles, and subsequently applied again for *CSS* class membership in 1995 through a human rights organization in Los Angeles.

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.

On May 4, 1988 the applicant filed a Form I-687, Application for Status as a Temporary Resident under section 245A of the Immigration and Nationality Act (INA). The application was granted on June 5, 1989. The applicant subsequently filed a Form I-698, Application to Adjust Status from Temporary to Permanent Resident (the file only contains a photocopied page one of the form), which was stamped as received by the INS office in Laguna Hills, California (Western Service Center), on December 10 1992. Though the application was timely filed within the 43-month time limit following the grant of temporary resident status, in compliance with 8 C.F.R. § 245a.2(u)(1)(iv), there is no evidence in the file as to what action, if any, the INS took on the application.

The applicant's I-687 filing in 1988 was the first step in the process of seeking permanent resident status under section 245A of the INA, which was enacted as part of the Immigration Reform and Control Act of 1986 (IRCA). It did not constitute a claim for class membership in one of the subsequent legalization class-action lawsuits, *CSS*, *LULAC*, or *Zambrano*, as required for an alien to be eligible for permanent resident status under section 1104(b) of the LIFE Act, enacted on December 21, 2000. Nor did the I-698 application filed in 1992 constitute a claim for class membership in one of the legalization lawsuits.

The record contains no documentary evidence that the applicant filed a claim for class membership in *CSS* in either 1990 or 1995, as alleged. There is no acknowledgement letter from the INS, or any other INS correspondence, indicating that a class membership claim was filed by the applicant. Though the applicant refers to a couple of appointments he had at the INS office in Los Angeles, the only such evidence in the record is of an interview that was scheduled for June 8, 1988 in connection with the applicant's earlier legalization application (Form I-687) under section 245A of the INA. There is no evidence of any *CSS*-related interview. Since the applicant had a pre-existing A-file from his earlier I-687 application, any written claim for class membership in *CSS* would almost certainly have been incorporated in the file. But there was no such class membership claim, or even a reference to *CSS*, in the applicant's file until the instant LIFE application (Form I-485) was received on July 20, 2001. That was close to a year after the statutory deadline of October 1, 2000 to file a claim for class membership in *CSS*, or either of the other legalization lawsuits.

Thus, the record fails to establish that the applicant filed a written claim for class membership in *CSS*, or either of the other two legalization lawsuits, *LULAC* or *Zambrano*, before October 1, 2000, as required 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.

The Director, National Benefits Center, shall forward the file to the California Service Center for appropriate action, if any, with respect to the Form I-698, Application to Adjust Status from Temporary to Permanent Resident, submitted by the applicant in 1992.