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MAY 28 2004

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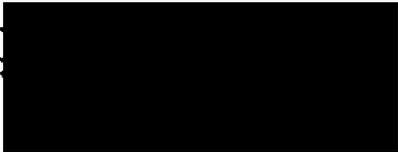
Office: NATIONAL BENEFITS CENTER

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:



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, 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, counsel for the applicant submits a separate statement in which he asserts that on February 11, 1991, the applicant was interviewed by the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services, or CIS) in connection with an application for class membership in the CSS class-action lawsuit. Counsel further asserts that the fact that CIS has no record of this interview may be due to the fact that the data may have subsequently been misplaced by the agency.

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 application, the applicant submitted the following: a photocopy of an incomplete Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act; and a photocopy of a notice from CIS's New York Legalization Office dated November 11, 1989, reflecting that the applicant was to be interviewed on February 11, 1991 for purposes of determining class membership in CSS/LULAC.

Subsequently, in response to the notice of intent to deny, the applicant submitted a photocopy of a Legalization Front-Desking Questionnaire, which was signed by the applicant on August 2, 2002. However, as the deadline for applicants to have filed written claims for class membership was *October 1, 2000*, the applicant's photocopied questionnaire does *not* constitute a timely submission.

On appeal, the applicant submits a personal affidavit, in which he specified that, on February 11, 1991, he was interviewed at the New York legalization office in connection with an application for class membership in the CSS class-action lawsuit. The applicant also provided detailed descriptions of his prior attorney on that occasion as well as the legalization officer who conducted the interview. In addition, the applicant provided an account of what transpired during the course of his interview.

On February 6, 2004, the AAO sent the applicant's attorney a follow-up communication informing him that, in order to expedite the adjudication of the appeal, he was requested to provide the *original* of the aforementioned photocopied interview notice from CIS's New York Legalization Office. Subsequently, on

February 15, 2004, counsel responded to the AAO's communication, asserting that the original of that document was no longer in his possession as it had previously been submitted to an officer at the New York Legalization Office at the time the applicant appeared for his February 11, 1991 interview.

Counsel's explanation for the applicant's inability to provide the original of the photocopied interview letter appears reasonable given the circumstances. It should also be noted in this connection that, while the regulations at 8 C.F.R. § 245a.12(f) indicate that "[i]n judging the probative value and credibility of the evidence submitted, greater weight will be given to the submission of original documentation," there is no actual *requirement* that original documentation must be submitted by an applicant.

The level of specificity provided in the applicant's account, as set forth in his personal affidavit, of what transpired during the course of his February 11, 1991 interview, along with his detailed descriptions of the interviewer, also tends to support the credibility of applicant's assertion that he did, in fact, present himself to the New York legalization office on the date in question for a determination regarding his eligibility for class membership in the CSS class-action lawsuit.

The applicant in this case has provided evidence of the type set forth in 8 C.F.R. § 245a.14 indicative of having filed a timely claim for class membership in the CSS legalization class-action lawsuit. The documentation submitted by the applicant throughout the application process appears to be consistent and convincing and serves to corroborate his claim. The photocopied notice submitted by the applicant along with his application serves to corroborate his claim on appeal that he attempted without success to apply for class membership in CSS. In addition, the director, in his denial, did not establish that the information contained in the notice was either false or inconsistent with the applicant's claims on the application or on rebuttal. It is, therefore, concluded that the applicant has established eligibility for class membership.

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.