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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

✓

[REDACTED]

FILE:

[REDACTED]

Office: NATIONAL BENEFITS CENTER

Date: SEP 23 2004

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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. 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 initially denied by the Director, Missouri Service Center. The matter was subsequently reopened and denied again by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The directors both 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 from the initial denial, counsel asserted that the applicant should be considered a class member because she attempted to file a Form I-687, Application for Temporary Resident Status under Section 245A of the Immigration and Nationality Act (INA), during the application period, but was turned away by an employee of the Immigration and Naturalization Service, or Service (now Citizenship and Immigration Service, or CIS). Counsel contended that the applicant subsequently filed a legalization application with another Service employee at the Service's 24th Street office in New York, New York. Counsel claims that this employee kept the applicant's legalization application and supporting documents, and informed her that she would receive an appointment letter at a later date. Counsel declares that the applicant never received any further correspondence from either the Service or its successor CIS regarding the application or appointment.

The record shows that subsequent to the reopening of the case, both the applicant and counsel were afforded the opportunity to submit additional material to supplement the appeal. However, as of the date of this decision, neither the applicant nor counsel has submitted any additional material in support of the appeal. Therefore, the record shall be considered complete.

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.

Counsel asserted that the applicant is eligible for permanent residence under the provisions of the LIFE Act because she had attempted to file a Form I-687 legalization application under section 245A of the INA during the application period. While the applicant may have been front-desked (informed that she was not eligible for legalization) when she attempted to file a Form I-687 legalization application, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits.

Counsel contended that the applicant subsequently filed a Form I-687 legalization application with another Service employee at the Service's 24th Street office in New York, New York. Counsel claimed that this employee kept the applicant's Form I-687 legalization application and supporting documents, and informed her that she would receive an appointment letter at a later date. Counsel declares that the applicant never received any further correspondence from CIS regarding her legalization application or appointment. However, counsel's contentions regarding this second filing attempt can neither be confirmed nor denied from the record. With her LIFE Act application, the applicant included a Legalization Front-desking Questionnaire that is signed by both the applicant and counsel and dated January 2001. However, a review of the record reveals no evidence that

the applicant filed a written claim to class membership before October 1, 2000 as required by 8 C.F.R. § 245a.10.

The record shows that the legalization questionnaire noted in the previous paragraph was received at the Service's Vermont Service Center (VSC) on February 5, 2001. The applicant submitted the legalization questionnaire to the Service as part of a separate program designed to identify applicants who attempted to apply for legalization during the period of May 5, 1987 to May 4, 1988, but whose applications were rejected or "front-desked." Under this program, the questionnaire was reviewed by the VSC to determine whether the front-desking claim was valid. If it was found to be valid, the applicant was instructed to file a Form I-687, application for temporary residence, with the Texas Service Center (TSC). The applicant subsequently filed the Form I-687 application with the TSC on June 4, 2003. On July 3, 2003, the Service issued a notice to both counsel and the applicant requesting that she provide further documentation in support of the Form I-687 legalization application. The applicant and counsel were granted 12 weeks to respond to the Service's notice. The record shows that neither counsel nor the applicant responded to the Service's notice. The Service determined that the application had been abandoned and, therefore, denied the application pursuant to 8 C.F.R. § 103.2(b)(13) on November 8, 2003.

Submitting a questionnaire and a Form I-687 legalization application to the Service under this program is not the equivalent of filing a written claim to class membership under one of the LIFE Act related lawsuits, nor does it alter the requirement that the written claim must have been filed prior to October 1, 2000, as stated in 8 C.F.R. § 245a.10.

The record reflects that all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. Given her failure to document that she timely filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.