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

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FILE: [REDACTED] Office: NATIONAL BENEFITS CENTER Date: JUL 26 2005

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 office that originally decided your case. 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, 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 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, the applicant reaffirms her claim that she filed a written claim for class membership with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) prior to October 1, 2000, by submitting additional documentation in support of her claim.

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. The regulations also permit the submission of "[a]ny other relevant document(s)." See 8 C.F.R. § 245a.14.

On her Form I-485 Life Act application, the applicant indicated that she had previously applied for and been granted class membership in a legalization class-action lawsuit on May 12, 1991. In support of her claim to class membership, the applicant included a photocopy of a "Form for Determination of Class Membership in CSS v. Meese or Lulac" that is dated May 12, 1991.

In her subsequent response to the notice of intent to deny, the applicant provided a photocopy of a document reflecting that she had been interviewed by a Service officer on May 12, 1991, and determined to be a class member in a legalization class action lawsuit.

In denying the application, the director concluded that the supporting documents submitted by the applicant did not appear to be anything issued by the Service. However, the director's conclusion must be considered to be speculative, as the record contains no evidence to demonstrate that any effort was undertaken to verify the authenticity of the documents. In addition, the director failed to establish that the information in these documents was inconsistent with the claims made by the applicant or that such information was false. If the director had questions regarding the credibility of the supporting document provided by the applicant, a request should have been issued to her to provide the original of any photocopied document. In addition, the applicant submits additional supporting documents relating to her claim to class membership that appear to have been issued to her by the Service on appeal.

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 such testimony and evidence.

The independent and contemporaneous evidence contained in the record tends to support the assertion that the applicant put forth a claim to class membership prior to October 1, 2000. Therefore, it must be concluded that the applicant has demonstrated that she 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.