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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: NATIONAL BENEFITS CENTER

Date:

APR 19 2006

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 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, Chief
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 dismissed.

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, the applicant's submits a statement in which he asserts that he and his family are eligible to adjust to permanent residence under the provisions of the LIFE Act because he had applied for class membership in one of the requisite legalization class action lawsuits. The applicant includes copies of previously submitted documents, as well as a new document in support of his claim that he applied for class membership prior to October 1, 2000.

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.

At issue in this proceeding is whether the applicant has submitted sufficient credible documentation to demonstrate that he filed a written claim for class membership in one of the legalization class-action lawsuits cited above before October 1, 2000. With his Form I-485 LIFE Act application, the applicant included a separate declaration in which he stated that he had visited "...an Agency in Center City Philadelphia..." in June 1987 but was informed he was not eligible for legalization because he had departed the country in the period from prior to January 1, 1982 to May 4, 1988. The applicant declared that he subsequently went to an "...an Agency in 5th Street Philadelphia..." that helped immigrants in December 1987. The applicant indicated that he was advised to submit a Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), and corresponding fee to the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS). The applicant claimed that shortly thereafter, he mailed the Form I-687 legalization application and a money order to the Service's Vermont Service Center (VSC). The applicant asserted that he never heard anything further from the Service regarding the Form I-687 legalization application. The applicant also provided photocopies of the following documents with his Form I-485 LIFE Act application:

- A Form I-687 legalization application that is signed by the applicant and dated December 4, 1987; and,

- A Legalization Front-Desking Questionnaire that is signed by the applicant and dated August 17, 2000.

These documents are listed in 8 C.F.R. § 245a.14 as examples of documents that may be furnished in an effort to establish that an alien had previously applied for class membership. Although all of the documents provided by the applicant are dated well before October 1, 2000, the record contains no evidence that any of these documents were submitted to the Service or its successor CIS prior to the filing of his Form I-485 LIFE Act application on December 26, 2002. While the applicant claimed that he included a money order with the Form I-687 legalization application that was purportedly submitted to the Service's VSC, he has failed to specify the amount of this money order. Furthermore, the applicant has failed to provide any independent evidence such as a money order receipt or a postal receipt to corroborate his claim that he mailed the Form I-687 legalization application and a money order to Service's VSC.

In his response to the notice of intent to deny, the applicant submitted copies of the two documents cited above, as well as a photocopy of a "*LULAC* Class Member Declaration." The *LULAC* declaration form is signed by the applicant and dated January 17, 1990. Within the *LULAC* determination form, the applicant indicated that he had continuously resided in the United States since prior to January 1, 1982. The applicant also declared that he departed this country on September 30, 1984, and then returned again to the United States with a nonimmigrant visa on or about November 6, 1984.

On appeal, the applicant provides copies of the Form I-687 legalization application, the legalization front-desking questionnaire, and the *LULAC* declaration form, as well as the following new document:

- A photocopy of an undated appointment notice from the Service's Legalization Office in Paterson, New Jersey, bearing the applicant's name, address, and date of birth, which scheduled him for an interview between 8:00 A.M. and 10:00 A.M. on February 21, 1990, regarding the late filing of a legalization application under the *LULAC* case.

The photocopied documents such as that the applicant provides both in response to the notice of intent to deny and on appeal, may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. § 245a.14(d). However, the applicant offered no explanation as to *why*, if he truly had either the *LULAC* declaration form or the Service appointment notice since at least 1990, he did not submit such documents with his Form I-485 LIFE Act application. Applicants were instructed to provide qualifying evidence *with* their applications and the applicant did include other supporting documentation with his LIFE Act application. A review of relevant records reveals no evidence that the applicant had a pre-existing file prior to filing of his Form I-485 LIFE Act application on December 26, 2002, in spite of the fact that he claims to have been issued the Service appointment notice relating to class membership in 1990. These factors raise serious questions regarding the authenticity and credibility of the supporting documentation, as well as the applicant's claim that he filed for class membership. Given these circumstances, it is concluded that photocopied documents provided by the applicant in support of his claim to class membership are of questionable probative value.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant has failed to submit documentation that credibly establishes his having filed a timely written claim for class membership in one of the aforementioned legalization class-action lawsuits. 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 his failure to document that he *timely* filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

The applicant is also inadmissible to the United States due to a medical condition pursuant to section 212(a)(1)(A)(i) of the Act. While a waiver of such ground of inadmissibility is available, no purpose would be served in soliciting such a waiver, as the applicant would still be ineligible for permanent residence under section 1104 of the LIFE Act for the reason stated in the previous paragraph.

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