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FILE: [Redacted]
MSC 03 247 60305

Office: NATIONAL BENEFITS CENTER

Date: **JUL 26** 2007

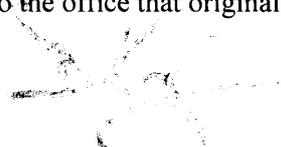
IN RE: Applicant: [Redacted]

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


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 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 asserts he is eligible for permanent resident status under the LIFE Act, and makes reference to having attempted to file a Form I-687 application for temporary residence in June 1987.

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 LIFE application, the applicant submitted copies of: 1) a Form I-687 application dated March 25, 1990; 2) a legalization questionnaire dated September 13, 2000; 3) a LULAC Class Member Declaration dated January 18, 1990; 4) a Form G-56 purportedly informing the applicant that an interview date of May 22, 1990 had been scheduled in order to determine subclass membership; 5) a personal declaration; and 5) evidence to establish his identity and continuous residence in the United States during the requisite period.

In a Notice of Intent to Deny dated December 29, 2004, the applicant was advised that there was no record of the legacy Immigration and Naturalization Service issuing the photocopied Form G-56 to him or that the applicant had appeared for an appointment.

On appeal, the applicant, submits copies of documents that were initially submitted with his LIFE application, along with a Form I-797C, Notice of Action, dated August 7, 2003, which advised the applicant that his application had been transferred to the New Jersey Office. The applicant asserts that he registered his case with LULAC in January 1990, and was informed by LULAC representatives that "I qualified to be a member of LULAC." The applicant asserts that he submitted a front desk questionnaire, which "is proof that I made an attempt to submit a timely claim to class membership." The applicant asserts, in part:

I also visited the INS office in Patterson, NJ and they gave me an appointment for an interview for May 22, 1990. I brought proofs[sic] of rent receipt, pay stubs, pictures, and all the forms. I also brought proofs [sic] that I traveled out of the country in 1984. They took copies of everything and told me that I should receive something in the mail within 90 days. I took every step possible to properly and timely file this application with INS. The fact that "the Bureau has been unable to locate the Form I-687" is not under my control.

The applicant, in his personal declaration, indicated, in part:

Another time in 1988, I heard again that people who entered the United States before January 1, 1982, were qualified to get a work permit. I applied using one of my friend's address in New York, and it was granted, but I misplaced it later on.

A review of relevant records reveals no evidence that the applicant had a pre-existing file prior to filing of his LIFE application on June 4, 2003, in spite of the fact that he claims to have been issued a work permit in 1988.

The questionnaire submitted relates to 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 Vermont Service Center (VSC) to determine whether the front-desking claim was valid. There is no record of VSC receiving this document. Submitting a questionnaire to the VSC 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.

In his legalization questionnaire, the applicant asserted that he visited the Patterson, New Jersey Office and was informed he did not qualify for temporary residence due to his departure from the United States during the requisite period.

However, while the applicant may have been front-desked (informed that he was not eligible for temporary residence) when he attempted to file a 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.

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 establish having filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

Beyond the decision of the director, it is noted that the applicant indicated on his *LULAC* Class Member Declaration that he departed the United States on December 13, 1984 and re-entered on February 5, 1985. He also indicated on his personal declaration that he departed the United States on December 22, 1984 and re-entered on February 15, 1985. Regardless of the actual departure and re-entry dates, this absence exceeded the forty-five (45) day limit for a single absence from the United States during the requisite period, as set forth in 8 C.F.R. § 245a.15(c)(1). As the appeal will be dismissed on the grounds discussed above, the issue need not be examined further.

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