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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:

MSC 02 052 62502

Office: NATIONAL BENEFITS CENTER

Date:

APR 30 2008

IN RE: Applicant:

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, Chief
Administrative Appeals Office

DISCUSSION: The director of the Missouri Service Center (now the National Benefits Center) denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. On appeal, the Administrative Appeals Office (AAO) remanded the case for further action. The matter is now before the AAO upon certification of the director's subsequent, adverse decision. The director's decision will be affirmed. The application will be denied.

The district director denied the application because the applicant failed to demonstrate that she filed a written claim for class membership in the *Catholic Social Services, Inc. (CSS)*, *League of United Latin American Citizens (LULUC)*, or *Zambrano* legalization class action lawsuits.

An applicant for permanent resident status under section 1104 of 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 one 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 Services v. Zambrano*, 509 U.S. 918 (1993) ("Zambrano"). See section 1104(b) of the LIFE Act and 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 established that she filed a timely written claim for class membership. Here, the applicant has failed to meet this burden.

In the Notice of Intent to Deny (NOID), dated on February 28, 2002, the director stated that the evidence provided failed to establish that the applicant filed a timely written claim for class membership in one of the legalization class action lawsuits. The director granted the applicant thirty (30) days to submit additional evidence. In response to the NOID, applicant submitted additional evidence. In a August 30, 2002, Notice of Decision (NOD), the director denied the instant application. On appeal, the AAO remanded the case for further action. In a February 24, 2005, Notice of Certification, the director certified his subsequent, adverse decision to AAO for review.

In support of the applicant's claim, the record contains photocopies of U.S. Postal Service Forms PS 3811 Domestic Return Receipt, and PS 3800 Certified Mail Receipt. While this evidence may establish that a particular piece of mail was postmarked and sent to the Vermont Service Center on January 26, 2001, and received on January 29, 2001, the evidence does not confirm the nature of the correspondence that was sent to the Service. This evidence does not provide the prima facie evidence required to establish that the applicant filed a timely written claim to class membership.

The record includes the applicant's Legalization Front-Deskling Questionnaire (Questionnaire), dated April 1, 2000. The record also includes six affidavits that accompanied the applicant's original

Questionnaire. All of the affidavits stated that the applicant attempted to apply for legalization during the original filing period and thereafter. None of the affidavits mentioned that the applicant filed a written claim for class membership before October 1, 2000. None of the affidavits mentioned any of the three legalization class action lawsuits. Applicant asserted that the Questionnaire fulfilled the requirements of filing a timely written claim for class membership. However, the AAO concludes that the filing of the Questionnaire does not equate to a written claim for class membership. The Questionnaire was evaluated by the Service in order to determine whether an applicant was eligible to file for legalization. While the record contains a photocopy of the applicant's Form I-687, Application for Temporary Resident Status pursuant to Section 245A of the Immigration and Nationality Act, dated on November 2, 1993, there is no evidence that the Form I-687 application was ever filed. The document does not bear a date-stamp by the Service which serves as confirmation that the applicant filed the application. Moreover, in a February 19, 2002, statement, the applicant stated that she did not file the Questionnaire until January 29, 2001, well after the October 1, 2000, deadline.

The record also includes a photocopy of the applicant's Form for Determination of Class Membership in *CSS v. Reno*, dated November 2, 1993. There is nothing on the Form for Determination that would indicate it was submitted to the Service. The document does not bear a date-stamp by the Service which serves as confirmation that the applicant filed the application.

Applicant contends that the above evidence is sufficient to establish that she filed a written claim for class membership. In context of the regulation at 8 C.F.R. § 245a.14, documents that prove an alien filed a written claim for class membership consist of documents issued by the Service to the alien, most of which include the alien's name, A-number, and date. The document bearing a date-stamp by the Service serves as confirmation that the applicant filed a written claim for class membership.

Here, the applicant failed to provide any Service documents which prove her claim for class membership was either received or filed. While the applicant's evidence is relevant and has been thoroughly reviewed, the evidence provides minimal probative value. The documentation neither confirms the applicant's claim was filed nor does it serve as verification by the Service. The record does not include a receipt or any other document to establish receipt by CIS. The affidavits make no mention of the applicant ever filing a written claim for class membership. The applicant's Form I-687 is dated in 1993, but contains no evidence it was ever properly filed. Therefore, it is insufficient to establish the applicant filed a written claim for class membership before October 1, 2000. None of the above documents provide the prima facie evidence required to establish that the applicant filed a timely written claim to class membership in one of the legalization class action lawsuits.

The applicant's own statements and assertions are insufficient to meet her burden. To meet her burden of proof, an applicant must provide evidence of eligibility apart from his own testimony. 8 C.F.R. § 245a.2(d)(6).

In the absence of additional credible evidence, the applicant has failed to prove that she filed a timely written claim with the Attorney General for class membership in one of the legalization class action lawsuits.

Therefore, the applicant failed to establish a written claim for class membership under Section 1104(b) of the LIFE Act and 8 C.F.R. §245a.10.

Based on the above discussion, the applicant is ineligible for permanent resident status under Section 1104 of the LIFE Act. Accordingly, the AAO shall not disturb the director's denial of the application.

ORDER: The director's February 24, 2005, decision is affirmed. The application is denied.