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FILE: [Redacted]
MSC 02 240 62608

Office: NATIONAL BENEFITS CENTER

Date: JUL 01 2008

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. If your appeal was dismissed or rejected, all documents have been forwarded to the Citizenship and Immigration Services National Records Center. 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. If your appeal was sustained, or if the matter was remanded for further action, the record of proceedings was returned to the office that originally issued a decision in your case, and you will be contacted.

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 that the applicant had not established that she had filed a written application for class membership in any of the requisite legalization class-action lawsuits before October 1, 2000. Therefore, the director denied the application.

On appeal, the applicant asserted that she filed a timely, written application for class membership when she submitted the legalization front-desking questionnaire to the Director, Vermont Service Center, during April 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 at 8 C.F.R. § 245a.14 provide an illustrative list of documents that an applicant may submit to establish that he or she filed a timely, written claim for class membership. Those regulations also permit the submission of “[a]ny other relevant document(s).” See 8 C.F.R. § 245a.14(g). Where the submitted document is not in strict compliance with the regulations in that it does not include an A-number, such evidence will be evaluated as a “relevant document” under 8 C.F.R. § 245a.14(g). See *Matter of E-M-*, 20 I&N Dec. 77, 81 (Comm. 1989)(where the Commissioner determined that when an applicant for original legalization submits a supporting document which is not in full compliance with the regulation specific to that document, the document should be considered as a “relevant document” under 8 C.F.R. § 245a.2(d)(3)(iv)(L).)

The AAO maintains plenary power to review this matter on a *de novo* basis. 5 U.S.C. § 557(b) (“On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule.”); see also, *Janka v. U.S. Dept. of Transp.*, NTSB, 925 F.2d 1147, 1149 (9th Cir. 1991). The federal courts have long recognized the AAO’s *de novo* review authority. See, e.g. *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). The AAO considers all pertinent evidence in the record, including new evidence properly submitted on appeal.¹

At issue in this proceeding is whether the applicant has submitted sufficient evidence to meet her burden of establishing that she filed a timely, written application for class-membership. Here, the applicant has failed to meet this burden.

¹ The submission of additional evidence on appeal is allowed by the instructions to the Form I-290B, which are incorporated into the regulations by the regulation at 8 C.F.R. § 103.2(a)(1). The record in this case provides no reason to preclude consideration of any of the documents newly submitted on appeal. See *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988).

The record includes the following documents which potentially relate to a timely, written request for class membership:

1. A Legalization Front-Desking Questionnaire signed by the applicant and dated January 6, 2000. The questionnaire was received by the Director, Vermont Service Center, on April 27, 2000.
2. The Form I-687, Application for Status as a Temporary Resident, signed by the applicant and dated May 18, 1988.

Filing a legalization front-desking questionnaire with the Vermont Service Center is not relevant to the issue of whether the applicant filed a timely, written claim to class membership in a legalization class-action lawsuit. This legalization front-desking questionnaire relates to a separate program designed to identify aliens who attempted to file for legalization during the original filing period of May 5, 1987 to May 4, 1988, but whose applications were improperly rejected or handed back at the “front desk” before being filed. This program does not relate to any class-action lawsuit. Under this program, the Vermont Service Center reviewed an alien’s legalization front-desking questionnaire and accompanying information to determine whether the front-desking claim was valid. If it was found to be valid, the alien was instructed to file the Form I-687. The Form I-687 would then be adjudicated as if it had been filed during the original filing period.

Submitting a legalization front-desking questionnaire and accompanying information to the Vermont Service Center under this program is not the equivalent of filing a timely, written claim to class membership in a legalization class-action lawsuit as outlined at 8 C.F.R. § 245a.10.

As set forth at 8 C.F.R. § 245a.14(d), the Form I-687 may be used to establish that an applicant has filed a timely, written claim for class membership. However, it is only the Form I-687 that is filed in conjunction with the class membership application which may be used to support an applicant’s claim of having applied for class membership. *See* 8 C.F.R. § 245a.14(d)(6). As noted by the director in the March 24, 2003 notice of decision, there is no evidence in the record or in the electronic databases maintained by Citizenship and Immigration Services (CIS) to indicate that the Form I-687 in the record was ever filed with CIS, or filed with its predecessor, the Immigration and Naturalization Service, in conjunction with a class membership application or otherwise. Thus, the AAO finds that the Form I-687 in the record does not serve to corroborate the applicant’s claim that she filed a timely, written application for class membership.

The applicant has failed to submit documentation that establishes that she filed a timely, written claim for class membership in one of the legalization class-action lawsuits. The record reflects that all appropriate indices and files were checked and it was determined that the applicant had not submitted a timely, written application for class membership.

The applicant has failed to establish that she filed a timely, written claim for class membership in one of the requisite legalization class-action lawsuits. Thus, she is not eligible for permanent residence under section 1104 of the LIFE Act.

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