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

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[redacted]

FILE: [redacted] Office: NATIONAL BENEFITS CENTER Date: JUL 18 2006

MSC 03 247 61628

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:

[redacted]

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 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, counsel asserts that the director abused his discretion by not weighing the evidence in a fair manner and by not considering the relevant factors in making his decision.

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.

In response to the director's Notice of Intent to Deny (NOID) dated April 29, 2004, the applicant admitted that she never filed for membership in any of the class-action lawsuits because she did not know that the lawsuits existed. She further stated that when she found out about the lawsuits, it was too late for her to join. The applicant alleged that although she talked with a "female officer" at the Immigration and Naturalization Services (INS) in 1991, she was not informed of the lawsuits that she could join.

On appeal, counsel argues that the applicant "would have gotten her AMNESTY RESIDENCE on 1988," but that she was discouraged from filing an application by "the CSS **representatives** at [redacted] Church" because she had traveled outside the United States. Counsel further alleges that immigration officials informed the applicant in 1991 that it was too late for her to file for "late Amnesty." Counsel further states:

> The fact that she was constantly told that she did not qualifed (sic) for the Amesty (sic), first by CSS organization and later by an Immigration Officer in San Bernardino discouraged Applicant of persuing (sic) a Life Legalization Act [claim]. The lack of information and inability to obtain the required application forms was a substantial cause of Applicant failure to timely file an application. So even if Applicant lacked of (sic) information regarding the Proposed Settlement of Class Action, she falls into the group of immigrants who are entitled to object to the proposed settlement and apply for legalization under the 1986 IRCA.

Counsel's argument is without merit. We note that the applicant's alleged interaction with the legacy INS in 1991 predated the Court's decisions in the various lawsuits. Further, neither the applicant nor counsel cites any requirement that would obligate Citizenship and Immigration Services (CIS) officials of informing an applicant of the lawsuits pending against the service. Further, to qualify as a member of one of the qualifying lawsuits, the applicant was not required to be identified as a member prior to the Court rendering its

decisions. By her admission, the applicant failed to apply for membership in any of the lawsuits prior to October 1, 2000.

Counsel also asserts that the director failed to consider the applicant for eligibility under section 245a.6 of the Immigration and Nationality Act as outlined in 8 C.F.R. § 245a.6, which provides:

> If the district director finds that an eligible alien as defined at § 245a.10 has not established eligibility under section 1104 of the LIFE Act (part 245a, Subpart B), the district director shall consider whether the eligible alien has established eligibility for adjustment to temporary resident status under section 245A of the Act, as in effect before enactment of section 1104 of the LIFE Act.

The regulation at 8 C.F.R. § 245a.10 defines "eligible alien" as:

> [A]n alien (including a spouse or child as defined at section 101(b)(1) of the Act of the alien who was such as of the date the alien alleges that he or she attempted to file or was discouraged from filing an application for legalization during the original application period) who, before October 1, 2000, filed with the Attorney General a written claim for class membership.

As the applicant has not established that she is an "eligible alien," the provisions of 8 C.F.R. § 245a.6 are inapplicable. Further, we note that the director examined service records and determined that, although the applicant's parents are naturalized citizens, service records do not indicate that they applied for class membership in any of the requisite class-action lawsuits. Additionally, the director informed the applicant that, although she has an approved I-130, Immigrant Petition for Relative, Fiancé(e), or Orphan, her priority date is November 12, 1996 and that the State Department (in 2004) was processing petitions for first family preference categories only for those with priority dates priority dates on or before January 1, 1992. Therefore, the director considered, and properly informed the applicant, of all classification programs to which she may have been entitled.

The applicant has failed to establish that she filed a timely written claim for class membership. Accordingly, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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