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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: [Redacted]
MSC 03 154 62752

Office: NATIONAL BENEFITS CENTER

Date: **MAY 29 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 returned to the National Benefits 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 remanded for further action, 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 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 that he made three attempts to file a written claim for class membership, that he was never assigned an alien registration number, and that it was a common practice of the New York legalization office to quickly reject the applications of those who had departed the United States without advance parole.

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 support of his application, the applicant submitted a copy of a Notice of Action that purports to cancel his interview to determine class membership, and advises the applicant to submit a completed Form I-687, Application for Status as a Temporary Resident, and a Form I-690, Application for Waiver of Grounds of Excludability under Sections 245A or 210 of the Immigration and Nationality Act, with the appropriate fees no later than November 4, 1991. The photocopied date of the notice is illegible. The applicant also submitted a copy of a Notice of Action dated November 18, 1991, purporting to verify receipt of the Form I-687 and Form I-690, a copy of a Form I-687 application dated February 13, 1991, copies of interview notifications dated April 30, 1992, and March 15, 1994, a copy of a form to determine class membership dated November 2, 1992, and a copy of a Legalization Front-Desk Questionnaire dated May 9, 2000.

None of the documents contain an alien registration number as required by 8 C.F.R. § 245a.14. A review of Citizenship and Immigration Service (CIS) records does not reveal that the legacy Immigration and Naturalization Services (legacy INS) generated any of the documents. We note that the Form I-687 application is dated several months before the Notice of Action purporting to advise the applicant of the need for a completed I-687 application. Further, although the November 18, 1991, Notice of Action purports to acknowledge receipt of a Form I-690 request for waiver, the record does not contain a waiver request.

On appeal, the applicant submits what he states is newly discovered evidence. The applicant submits the following additional documentation:

1. A copy of a notice dated September 4, 1987, purporting to schedule the applicant for a September 8, 1987, appointment for an interview to determine class membership.

2. A copy of a Form I-687 application dated September 8, 1987.
3. A copy of a Notice of Action dated October 30, 1991, purporting to cancel the applicant's interview to determine class membership, and advising the applicant to submit a completed Form I-687 and a Form I-690 with the appropriate fees no later than November 4, 1991.
4. A copy of a Legalization Front-Desking Questionnaire dated March 15, 1994.
5. A copy of a letter dated May 9, 2000, addressed to the legacy INS and to the attention of ██████████ ██████████ Washington, DC. The letter is titled "Final Written Claim for Class Membership as a CSS Group Member," and shows the applicant signed it before a notary on May 9, 2000.

The applicant also submitted sworn statements from three individuals who stated that they were aware that the applicant had attempted to file for class membership but was refused by the New York district office because he had been out of the United States without advance parole. However, these individuals appear to be witnesses to the applicant's attempts to file an application for legalization, not his attempts to file for class membership. Additionally, none of these individuals accompanied the applicant into the interview room and therefore cannot attest to anything that occurred in the room.

The September 8, 1987, interview notice, allegedly scheduling the applicant for an interview to determine class membership is dated prior to the date of the class action lawsuit. Additionally, both Notices of Action, purporting to cancel the applicant's appointment and advising him to file a Form I-687 and a Form I-690, contain the same information and the same due date for filing the applications. However, the copy of the October 30, 1991, Notice of Action is typed differently and contains information that was missing on the Notice of Action with the illegible date. It is highly unlikely that the Vermont Service Center, who allegedly issued both notices, would have issued two separate notices with such different information, including the identification of the office. As discussed above, the record does not contain a Form I-690, none of the documents contain an alien registration number, and none contain any indication that they were ever received by the legacy INS. A review of CIS records does not confirm that it received any of the documents allegedly submitted by the applicant.

Accordingly, the record does not establish that the applicant applied for class membership in any of the requisite legalization class-action lawsuits. Given his failure to document that he filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

The record reflects that on December 16, 2005, the applicant filed a Form I-687 application pursuant to the terms of the settlement agreements reached in *Catholic Social Services, Inc., et al., v. Ridge, et al.*, CIV. NO. S-86-1343-LKK (E.D. Cal) January 23, 2004, and *Felicity Mary Newman, et al., v. United States Immigration and Citizenship Services, et al.*, CIV. NO. 87-4757-WDK (C.D. Cal) February 17, 2004, (CSS/Newman Settlement Agreements), under CIS receipt number MSC 06 077 10716. The District Director, New York, New York, denied this application on August 16, 2006. The applicant's appeal of the director's decision is not at issue in this decision.

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