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U.S. Department of Homeland Security
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U.S. Citizenship
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FILE: [REDACTED]

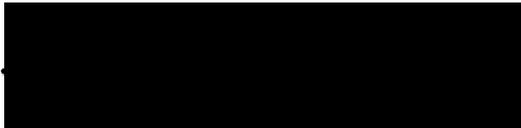
Office: NATIONAL BENEFITS CENTER

Date: FEB 23 2005

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:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was initially denied by the Director, Missouri Service Center. The matter was subsequently reopened and denied again by the Director, National Benefits Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The directors both 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 from the initial denial, the applicant asserted that he filed a legalization questionnaire with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS). The applicant contended that this action is sufficient to establish that he filed a timely claim for class membership in one of the requisite legalization lawsuits and, therefore, his eligibility to permanent resident status under the provisions of the LIFE Act.

The record shows that subsequent to the reopening of the case, the applicant was afforded the opportunity to submit additional material in support of the appeal. However, the applicant has failed to submit any material to supplement his appeal. Therefore, the record shall be considered complete.

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.

The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. See 8 C.F.R. § 245a.12(e). An alien applying for adjustment of status under section 1104 of the LIFE Act has the burden of proving his or her eligibility by a preponderance of the evidence.

With his LIFE Act application, the applicant submitted a statement in which he asserted that he previously applied for class membership with the Service by submitting a Legalization Front-Desking Questionnaire. A review of the record reveals that the applicant initially submitted a legalization questionnaire, a Form G-28, Notice of Entry of Appearance as Attorney or Representative, dated July 13, 2000, and a statement from his attorney that were received by the Service's Vermont Service Center (VSC) on August 7, 2000. The record shows that another separate legalization questionnaire, Form G-28, and an affidavit were subsequently received at the VSC on December 4, 2000.

In denying the application, both directors seemingly ignored the fact that the applicant filed a written claim to class membership when he submitted the legalization questionnaire and accompanying statement to the Service's VSC on August 7, 2000. The legalization questionnaire and accompanying statement are relevant documents under 8 C.F.R. § 245a.14, and as such, are sufficient to demonstrate that the applicant made a written claim to class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000. Furthermore, the National Benefits Center Director declared that the applicant also possessed two additional Administrative Files, or A-files [REDACTED] and [REDACTED] in the most recent notice of intent to deny issued on January 20, 2004, and that a search of these files failed to reveal that the applicant made a written

claim to class membership. However, the record contains no evidence as to the manner in which such files had been searched as neither of these A-files, [REDACTED] have been incorporated into the current record of proceedings. Therefore, an effort must be undertaken to consolidate such A-files into the record as these A-files may contain information and evidence relevant to the current proceedings.

It must now be determined whether the applicant is otherwise eligible for permanent resident status under section 1140 of the LIFE Act. Accordingly, the matter will be forwarded to the appropriate district office for further processing and adjudication of the LIFE Act application.

ORDER: The appeal is sustained. The director shall forward this matter to the proper district office for the completion of adjudication of the application for permanent residence.