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

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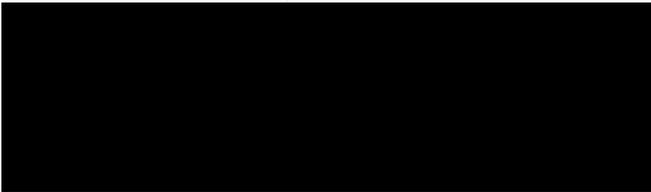
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FILE:  Office: NATIONAL BENEFITS CENTER Date: JUN 17 2005

IN RE: Applicant: 

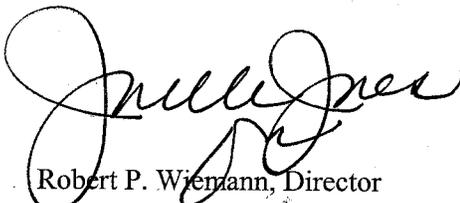
PETITION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. 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. Wienmann, Director  
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 sustained.

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, counsel asserts that the applicant has submitted a sufficient evidence to show that he applied for class membership with the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS).

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.

The record contains the following documents that directly relate to the applicant's attempt to establish a claim to class membership:

- A Form I-687, Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (Act), which bears a handwritten notation indicating that it was received and fee registered with the Service on September 19, 1988.
- A Form I-689, Fee Receipt, that reflects that the Form I-687 application was received and fee registered with the Service on May 4, 1988, with the applicant to report for an interview at the Service's Huntington Park, California Legalization Office on September 19, 1988. This document characterizes the Form I-687 application as "FORM NO.: I-687L."
- A photocopy of a Form I-688, Temporary Resident Card, which was created by the Service on May 4, 1988 and subsequently issued to the applicant.

- A Form I-696, Legalization Worksheet, that was completed by a Service officer on September 19, 1988, when the applicant appeared for his interview at the Service's Huntington Park, California Legalization Office. It must be noted that the Service officer recommended that the applicant be granted temporary residence on both the Form I-687 application noted above and the Form I-696 worksheet.
- A photocopy of an appointment notice dated December 2, 1995, from the Service's Legalization Office in Los Angeles, California, which bears the applicant's name and address and scheduled him for an interview at 8:00 A.M. on March 9, 1996, regarding the late filing of a Form I-687 application under either the *CSS* or *LULAC* case.

The evidence in the record tends to establish that the applicant attempted to submit the Form I-687 application with the Service on May 4, 1988, but for some unknown reason the filing and fee registering of the application was not perfected until September 19, 1988. A review of relevant computer records reveals that applicant's file with the Service originated on this date and he was assigned the Alien Registration Number, or A-number, [REDACTED]. The record of proceedings contains no documentary evidence to reflect that the Service either subsequently adjudicated or undertook any final action relating to the Form I-687 application. The applicant has provided a Service appointment notice dated December 2, 1995, that tends to establish that the Service requested that he appear for an interview on March 9, 1996 concerning the late filing of his Form I-687 application under either the *CSS* or *LULAC* case. The record of proceeding shows that the applicant subsequently filed his Form I-485 LIFE Act application on May 27, 2003. The applicant indicated that he believed he was eligible to adjust to permanent residence under the LIFE Act as a *CSS* class member.

Although the director took issue with the credibility of the appointment notice in denying the LIFE Act application, the director failed to establish that the information in the appointment notice was inconsistent with the claims made on the LIFE Act application or that such information was false. If the director had questions regarding the credibility of the supporting document provided by the applicant, a request should have been issued to him to provide the original of the photocopied document. The applicant's own testimony taken in context with supporting evidence in certain cases can logically meet the preponderance of evidence standard. As stated in *Matter of E--M--*, 20 I. & N. Dec. 77 (Comm. 1989), when something is to be established by a preponderance of evidence, the applicant only has to establish that the proof is probably true. Clearly, the Service application and forms cited above are relevant documents under 8 C.F.R. § 245a.14. As such, the applicant's claim to class membership must be considered in light of such testimony and evidence.

The independent and contemporaneous evidence contained in the record supports the conclusion that the applicant attempted to submit his Form I-687 application to the Service in a timely manner on May 4, 1988, but that the Form I-687 application was not filed and fee registered until September 19, 1988. As such, the late-filed Form I-687 application must be considered to be the applicant's written claim to class membership. Furthermore, such evidence tends to establish that the applicant was scheduled to appear for an interview regarding either *CSS* or *LULAC* class membership at 8:00 A.M. on March 9, 1996, at the Service's Los Angeles, California Legalization Office. Therefore, it must be concluded that the applicant has demonstrated that he filed a written claim to class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000.

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.