

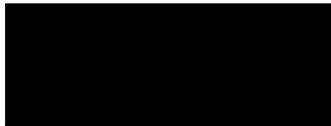
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



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FILE:



Office: NATIONAL BENEFITS CENTER

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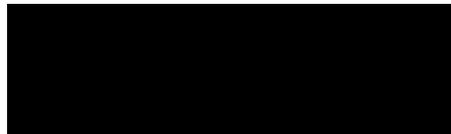
IN RE:

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. Wiemann, 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 that the record did not establish the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, counsel for the applicant submits an affidavit from the applicant, in which the applicant affirms having applied for class membership prior to October 1, 2000.

An applicant for permanent resident status under section 1104 of 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 one 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 section 1104(b) of the LIFE Act and 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.

With his LIFE application, the applicant has submitted the following:

- a photocopied a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act (INA), which is signed by the applicant and dated October 15, 1995;
- an affidavit from the applicant’s brother, stating that the applicant had attempted on several occasions to file an application with INS for class membership in the CSS class action lawsuit, only to be informed by Service personnel that INS was no longer accepting such filings as a result of recent, related court decisions;
- a photocopy of a Status Inquiry Form/Change of Address dated April 15, 1996, purportedly sent by the applicant to the Houston, Texas office of the Immigration and Naturalization Service (INS, now Citizenship and Immigration Services or CIS); and
- a photocopy of an undated general information communication from INS’s Houston, Texas office, indicating that INS would no longer be accepting applications for class membership in the CSS v. Reno lawsuit, and that employment authorization would, therefore, no longer be available;
- a photocopy of an “Initial CSS Applicant” form completed by the applicant, which is dated September 15, 1995;

- a photocopy of an undated communication from INS's Houston office to the applicant, requesting that he complete and submit an enclosed Form for Determination of Class Membership; and
- a photocopy of a "Client Document Form" dated December 11, 1995, purportedly sent by the applicant to the Center for Human Rights and Constitutional Law, Los Angeles, California, indicating the applicant had submitted his application to INS for class membership in CSS.

On appeal, the applicant submits a personal affidavit in which he contends that he had made several attempts during the 1990's to apply to INS for class membership in the class-action lawsuits. In denying the application, the district director asserted that there was no indication in Service administrative or electronic records that the photocopied notices provided by the applicant were ever actually received by INS or sent to the applicant. It has not been demonstrated, however, that INS necessarily created Service files in every case of aliens who attempted to file class membership applications during that time period, or that communications such as those submitted by the application to the INS would necessarily have been retained or routinely entered into Service data bases. Moreover, if the director entertained doubts regarding the authenticity of the photocopied communications provided by the applicant, he could have opted to require that the applicant supply the originals of these documents.

Pursuant to 8 C.F.R. § 245a.14(b), an applicant may submit, as evidence of having filed for class membership, CIS documents addressed to him. Counsel and the applicant have endeavored to provide evidence of the type set forth in these regulations indicative of having filed a timely claim for class membership in the CSS legalization class-action lawsuit. The photocopied notices and communications submitted by the applicant throughout the application process appears to be consistent and convincing and serves to corroborate his claim on appeal to having attempted unsuccessfully to apply for class membership in CSS. As such, the applicant has provided appropriate evidence of having attempted to file a timely claim for class membership in the CSS legalization class-action lawsuit. It is, therefore, concluded that the applicant has established eligibility for class membership.

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.