

United States District Court
Southern District of Texas
EJFB

MAR 31 2004

Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

United States District Court
Southern District of Texas
ENTERED

MAR 31 2004

Michael N. Milby, Clerk of Court

TERESA D. PADILLA, ADELA)
 ESPERANZA GARCIA, MARIA DE LA)
 LUZ MATA, SAED ABEL HADI ISMAIL)
 SHELBAYEH, ANA RIVERA DE)
 PRINCIPE, SORAYA MOKRY, RAQUEL)
 PATINO HERNANDEZ, BEATRIZ)
 ADRIANA ROSALES, ESPERANZA)
 CASTILLO-BANDA, ENEDELIA)
 PEREZ-CASTILLO, YANIDIA PEREZ-)
 CASTILLO, IDALIA PEREZ-CASTILLO,)
 JOSE LUIS PEREZ-CASTILLO,)
 INDIVIDUALLY AND ON BEHALF OF)
 ALL OTHERS SIMILARLY SITUATED)
 PERSONS)
 VS.)
 TOM RIDGE, SECRETARY FOR)
 HOMELAND SECURITY, JOHN)
 ASHCROFT, ATTORNEY GENERAL,)
 EDUARDO AGUIRRE, JR., ACTING)
 DIRECTOR FOR THE BUREAU OF)
 CITIZENSHIP AND IMMIGRATION)
 SERVICES, KENNETH PASQUARELL,)
 INTERIM REGIONAL DIRECTOR FOR)
 THE BUREAU OF CITIZENSHIP AND)
 IMMIGRATION SERVICES, ALFONSO)
 DE LEON, INTERIM DISTRICT)
 DIRECTOR FOR THE HARLINGEN)
 BCIS DISTRICT, SHARON HUDSON,)
 INTERIM DISTRICT DIRECTOR FOR)
 THE SAN ANTONIO BCIS DISTRICT,)
 AND HIPOLITO ACOSTA, INTERIM)
 DISTRICT DIRECTOR FOR THE)
 HOUSTON BCIS DISTRICT)

CIVIL ACTION NUMBER

M-03-126

O R D E R

Having come on to be considered Plaintiffs' Motion for Class Certification (Docket Entry Number 17) and the Court, after considering the pleadings on file and the arguments of counsel, issues the following ruling.

Plaintiffs have filed this case complaining that federal immigration authorities do not issue temporary proof of lawful immigration status to persons granted lawful permanent residency (LPR) status in removal proceedings. Plaintiffs seek declaratory, injunctive and mandamus relief against the Defendants. Plaintiffs originally moved for class certification seeking to represent a class "of all persons who were or will be granted lawful permanent resident status in removal proceedings in the Harlingen, Houston and San Antonio Districts of the Bureau of Citizenship and Immigration Services ('BCIS') and for whom BCIS fails to issue adequate, temporary documentation evidencing lawful permanent resident status."

The Court is of the opinion that the Plaintiffs, pursuant to Rule 23(a), Federal Rules of Civil Procedure, have satisfied the requirements to warrant certification of the below stated class at this time.

It further appears to the Court that this action falls within the category of cases contemplated by Rule 23(b)(2), Federal Rules of Civil Procedure, which states class certification is warranted under said rule if "the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole."

In this case, Plaintiffs and class members seek broad equitable relief. The Federal Rules do not expressly require class notice in Rule 23(b)(2) classes, and such notice appears to be

discretionary. The Court finds that, in this action, notice to absent class members is not necessary.

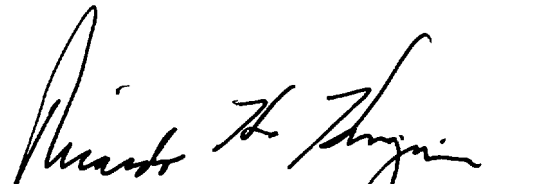
It is, therefore, ORDERED that:

Plaintiffs' Motion for Class Certification is GRANTED to the extent that the above-captioned case is to be maintained as a class action comprised of:

All persons who were or will be granted lawful permanent resident status in removal proceedings conducted by the immigration courts in Harlingen, Houston and San Antonio within the Department of Justice's Executive Office for Immigration Review (DOJ/EOIR), or who were or will be granted LPR status by the DOJ Board of Immigration Appeals in cases on appeal from said immigration courts and to whom DHS/USCIS has not issued temporary documentation evidencing LPR status.

The Clerk shall send a copy of this order to the counsel of record for the Parties.

DONE on this 31st day of March, 2004, at McAllen, Texas.



Ricardo H. Hinojosa
UNITED STATES DISTRICT JUDGE