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

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536

PUBLIC COPY



DEC 10 2003

FILE: [Redacted] Office: NATIONAL BENEFITS CENTER Date:
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).

IN BEHALF OF APPLICANT: Self-represented

**Identifying data deleted to
prevent invasion of personal privacy**

INSTRUCTIONS: Attached is the decision rendered on your appeal. The file has been returned to the National Benefits Center. 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.

for
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, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director concluded the applicant had not established that she 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 indicates that a brief and/or evidence will be forthcoming within thirty days. However, as of the date of this decision, the applicant failed to submit a statement, brief, or documentation to supplement the 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), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). See 8 C.F.R. § 245a.10.

As stated in 8 C.F.R. § 103.3(a)(3)(iv), any appeal which is filed that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. The applicant has failed to address the reasons stated for denial and has not provided any additional evidence on appeal. The appeal must therefore be summarily dismissed.

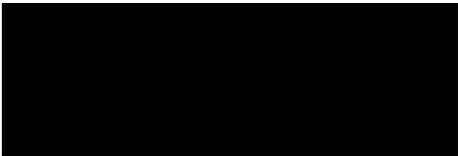
ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.

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DEC 10 3

FILE: [Redacted] Office: NATIONAL BENEFITS CENTER Date:

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).

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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, Missouri Service Center, and is now before the Administrative Appeals Office (AAO) 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 asserted that he had filed a written claim for class membership in the CSS case -- one of the three requisite legalization class-action lawsuits. In addition, he stated that he qualified for permanent resident status under the LIFE Act on a derivative basis as the spouse of one who had previously filed a claim for class membership.

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 the following legalization class-action lawsuits: *Catholic Social Services, Inc. (CSS) v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993). See 8 C.F.R. § 245a.10.

In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership before October 1, 2000. However, the applicant must establish that the family relationship existed at the time the spouse or parent initially attempted to apply for temporary residence (legalization) in the period of May 5, 1987 to May 4, 1988. See 8 C.F.R. § 245a.10.

The applicant failed to submit any documentation addressing this requirement when the application was filed. Subsequently, in rebuttal to a notice of intent to deny, the applicant provided a photocopy of a letter dated August 22, 2000, supposedly sent to Attorney General Reno, requesting that the applicant be registered in the *CSS v. Meese* case. Pursuant to 8 CFR § 245a.10, a *written claim for class membership* means a filing, in writing, in one of the forms listed in § 245a.14 which provides the Attorney General with notice that the applicant meets the class definition in the cases of *CSS*, *LULAC* or *Zambrano*. The letter does not constitute a "form" and does not equate to the actual forms listed in 8 CFR § 245a.14, although that regulation also states other "relevant documents" may be considered. However, the very brief letter does not even begin to imply that the applicant could qualify for *LULAC* class membership because it does not provide any relevant information upon which a determination could be made.

Moreover, the applicant does not explain *why*, if this letter were truly in his possession the entire time, he did not submit it along with his LIFE application, as applicants were advised to provide evidence *with* their applications. In addition, it must be noted that the applicant is one of numerous aliens who did not furnish such similarly-worded letters with their LIFE applications, and yet provided them only upon receiving letters of intent to deny.

It is further noted that all of these aliens had their LIFE applications prepared by M.E. Real of Professional Tax Service, Santa Maria, California. In addition, none of these aliens have provided any evidence, such as postal receipts, which might help demonstrate that the letters were actually sent to the Attorney General. Given the importance of the letters, it would be reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail. These factors raise grave questions about the authenticity of the letter that the applicant purportedly sent to the Attorney General.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. See *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant does provide documentation relating to the prior adjudication of a separate application he had submitted for temporary resident status under section 245A of the Immigration and Nationality Act (INA). A review of the record shows that the applicant timely filed his application for temporary resident status under section 245A of the INA, and this application was subsequently denied. The applicant appealed the denial of his application, and this appeal was dismissed by the AAO. In any case, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status under section 245A of the INA.

On appeal, the applicant stated that he qualified for permanent resident status under the LIFE Act on a derivative basis as the spouse of one who had previously filed a claim for class membership. In his decision, however, the director determined that there was no evidence in Citizenship and Immigration Services (CIS) records that the applicant or his spouse had ever filed a written application for class membership. Although not mentioned in the director's decision, an examination of the applicant's G-325A Biographic Information Form discloses that the applicant and his spouse were not married until August 1, 1993. As the family relationship did not exist as of May 4, 1988, the applicant cannot claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

Given his failure to establish that he filed a written claim for



class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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