

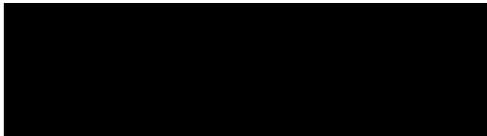
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invasion of personal privacy

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



FILE: [Redacted]

Office: Baltimore

Date: DEC 31 2003

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: Self-represented

INSTRUCTIONS: Attached is the decision rendered on your appeal. The file has been returned to the Baltimore office. 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 Acting District Director, Baltimore, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States and is otherwise eligible for adjustment of status under this section.

When something is to be established by a preponderance of the evidence it is sufficient that the proof establish that it is probably true. See *Matter of E-- M--*, 20 I&N Dec. 77 (Comm. 1989).

The director concluded the applicant failed to establish he resided in the United States from January 1, 1982 through May 4, 1988. However, the director did not specify any deficiencies in the evidence furnished for that period, other than to say that affidavits alone lack probative value.

Pursuant to *Matter of E--M--*, *supra*, the director cannot refuse to consider affidavits, or any form of evidence relating to the 1981-88 period. There are many factors the director may consider:

- Quality and extent of evidence;
- Inconsistencies between evidence and claims;
- Lack of contemporaneous documentation for certain periods when it is plentiful for other periods;
- Contradictions in information the applicant has provided on the application and on other forms such as Form I-687 Application for Status as a Temporary Resident, and Form G-325A Biographic Information;
- Lack of proof of entry for aliens from non-contiguous nations whose nationals normally enter the United States at ports-of-entry; and
- Any ADP records which may disclose entries to and departures from the United States that aliens made but failed to disclose on their LIFE applications.

The burden of proof is upon an applicant to establish he resided in the United States during the claimed period. He must submit some type of documentation which would support his claim. The director must address the evidence furnished and render a determination as to its credibility. It is not sufficient to simply state that the applicant has not overcome the grounds set forth in the intent notice. Any perceived shortcomings in the

evidence must be specified in the director's notice of decision in order that the applicant may have an opportunity to file a meaningful appeal.

Accordingly, the case will be remanded for the purpose of a new decision addressing the above. If the new decision is adverse, it shall be certified to this office.

**ORDER:** The case is remanded for appropriate action and decision consistent with the foregoing.

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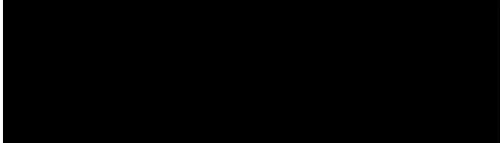
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U.S. Department of Homeland Security

Citizenship and Immigration Services

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

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



FILE:

Office: NATIONAL BENEFITS CENTER

Date: DEC 31 2003

IN RE: Applicant:

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: 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.

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 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, counsel for the applicant submits a separate statement in which she asserts that the documentation provided by the applicant in support of his LIFE application should suffice to establish his eligibility for class membership in *CSS v. Meese*.

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.

Along with his application, the applicant submitted the following:

- A photocopy of a completed Form for Determination of Class Membership in *CSS v. Meese*, which was supposedly signed by the applicant on April 11, 1997; and
- A photocopy of a a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which was purportedly signed by the applicant on April 12, 1997;

Such CIS documents could possibly be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. 245a.14(d). However, an examination of the record of proceedings discloses the following:

- A November 19, 1996 conviction for driving while intoxicated, by the Harris County, Texas County Criminal Court of Law;
- A November 30, 1998 conviction for driving while intoxicated, by the Harris County, Texas County Criminal Court of Law; and
- A January 7, 1999 Warrant of Removal/Deportation by the District Director, Houston, Texas, for

violation of section 212(a)(2)(A)(i)(I) of the INA [commission of a crime involving moral turpitude] and section 212(a)(6)(A)(i) [alien residing in the U.S. without being admitted or paroled]. The warrant was executed, and the alien removed, on January 8, 1999.

However, at Part 3, question 1 of the applicant's LIFE application, when asked whether he had ever been arrested or charged with breaking or violating a law, the applicant responded in the negative. At question 9 of Part 3, when asked if he had ever been deported or removed from the U.S., the applicant again responded in the negative. And at item 40 on the applicant's Form I-687 application, when asked whether or not he had been arrested, convicted or confined in a prison, the applicant's response was once again in the negative.

Clearly, throughout the application process, the applicant has consistently demonstrated a pattern of providing misinformation and inaccurate responses in the course of supplying data requested of him by CIS in attempting to determine eligibility for permanent resident status under the LIFE Act.

Moreover, the Form I-213 Record of Deportable/Inadmissible Alien dated December 22, 1988, compiled in conjunction with removal proceedings, includes a notation that the applicant informed the interviewer that he was a native and citizen of Mexico. With the exception of this brief notation, there is no indication of the applicant having further informed the interviewer of any previous attempts at applying for class membership. If the applicant had indeed submitted documentation to CIS in April 1997 indicative of a pending application for class membership, he would surely have raised this fact in his discussions with the interviewing officer prior to removal proceedings.

Doubt cast on any aspect of an applicant's proof 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. *Matter of Ho*, 19 I. & N. Dec. 582 (BIA 1988).

The aforementioned significant unresolved contradictions and inconsistencies raised by the applicant's documentation seriously undermine the credibility of his claim to eligibility for permanent resident status under the LIFE Act. Given the applicant's failure to provide credible documentation indicating his having filed a timely claim for class membership, and the fact that CIS has no record of the applicant having filed the Form I-687 and no record of calling him in for an interview, it is concluded that the applicant did not file a timely written request for class membership. He is therefore ineligible for permanent residence under section 1104 of the LIFE Act.



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