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

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

[Redacted]

FILE [Redacted]

Office: NATIONAL BENEFITS CENTER

Date: **NOV 05 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).

IN BEHALF OF APPLICANT: [Redacted]

INSTRUCTIONS: Attached is the decision rendered on your appeal. The file has been returned to the Service Center that processed your case. If your appeal was sustained, or if your case was remanded for further action, the Service Center will contact you. 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
for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under section 1104 of 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, counsel states that the findings in the decision were vague and that it is unclear which part of the records of the applicant's husband is being referred to. According to counsel, the applicant's claim under the Family Unity Act provisions was ignored. Counsel contends that the evidence established the applicant's identity and residence, the two factors required by the Family Unity Act.

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. 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. That same regulation provides that, 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.

The applicant has not provided evidence of having applied for class membership. She evidently bases her claim for benefits under the LIFE Act on her husband's application for class membership. However, there is nothing in the record to indicate a claim to class membership had ever been filed by her spouse. Given her failure to document that she or he filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

On appeal, counsel maintains that the applicant is eligible under a different part, section 1504 of the LIFE Act, Application of Family Unity Provisions to Spouses and Unmarried Children of Certain Life Act Beneficiaries.

Pursuant to 8 C.F.R. § 245a.31, an alien currently in the United States may obtain Family Unity Benefits under section 1504 of the LIFE Act Amendments if he or she establishes that:

(a) He or she is the spouse or unmarried child under the age of 21 of an eligible alien (as defined under 245a.10) at the time the alien's application for Family Unity benefits is adjudicated and thereafter;

(b) He or she entered the United States before December 1, 1988, and resided in the United States on such date; and

(c) If applying for Family Unity benefits on or after June 5, 2003, he or she is the spouse or unmarried child under the age of 21 of a alien who has filed a Form I-485 pursuant to Subpart B.

According to counsel, the applicant qualifies under section 1504 because she established her identity and her residence in the United States.

The application for permanent residence under section 1104 cannot be approved for the reasons stated above. That is the only application which is before this office on appeal. If an applicant were to file a separate application for Family Unity and receive a denial of that application, there is no appeal of that denial.

Given her inability to meet the requirements, 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.