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Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
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Washington, D.C. 20536



SEP 30 2003

File:



Office: National Benefits Center

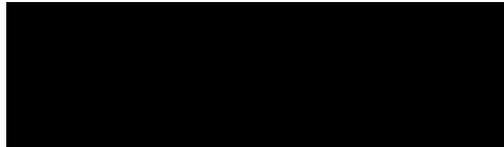
Date:

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 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.

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 Administration 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. The director also determined that the applicant was ineligible to adjust to permanent residence pursuant to 8 C.F.R. § 245a.18, because he was found inadmissible under one or more provisions of section 212(a) of the Immigration and Nationality Act (INA).

On appeal, counsel asserts that the applicant had filed a written claim for class membership by submitting a *CSS v. Reno* questionnaire and a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the INA, prior to October 1, 2000. Counsel claims that these documents were rejected.

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 (LULAC) v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc. (CSS)*, 509 U.S. 43 (1993), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano (Zambrano)*, 509 U.S. 918 (1993). See 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.

The director determined that the applicant was ineligible to adjust to permanent residence under the provisions of the LIFE Act because he was found inadmissible under one or more provisions of section 212(a) of the INA. However, such a finding is without merit as the director failed to cite a specific ground of inadmissibility as it applies to the applicant. Instead, the director merely cited an extensive list of various grounds of inadmissibility from 8 C.F.R. § 245a.3, as well as sections 212(a) and 245A of the INA, and concluded that the applicant was inadmissible "...under at least one of the provisions of section 212(a)..." of the INA. In order to be legally sufficient and correct, the director must cite the specific provision of law or regulation that applies to an applicant who is deemed either inadmissible or ineligible. For this

reason, the director's finding that the applicant is ineligible to adjust to permanent residence under the LIFE Act because he is inadmissible cannot be considered valid.

Counsel's claim that the applicant had attempted to timely file a written claim for class membership by submitting a *CSS vs. Reno* questionnaire and Form I-687 legalization application prior to October 1, 2000, but that these documents were rejected is not supported by evidence contained in the record. Neither counsel nor the applicant has provided any documentation that would tend to corroborate this claim. The record shows that the applicant submitted a Legalization Front-Desking Questionnaire on November 27, 2000. An examination of the record fails to disclose that any documentation concerning a request for class membership was filed by the applicant with the Bureau by October 1, 2000.

The record reflects all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. Given his failure to document that he *timely* 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.