

L2

U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 I Street, N.W.  
Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

[Redacted]

FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

Date:  
APR 23 2004

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:

[Redacted]

**PUBLIC COPY**

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

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. If your appeal was sustained, or if your case 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*  
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 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 indicates that the applicant qualifies as a derivative beneficiary for permanent residence under the LIFE Act through his wife. Counsel contends that the applicant asserted his claim to class membership by filing for voluntary extended departure under the Family Unity Act program prior to October 1, 2000.

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

Counsel contends that the applicant asserted his claim to class membership by filing for voluntary extended departure under the Family Unity Program before October 1, 2000. Contrary to counsel's assertion, the applicant submitted an Application for Voluntary Departure under the Family Unity Program on June 29, 2001. This application was denied on March 25, 2002. An application for voluntary departure under the Family Unity Program does not constitute an application for class membership in any of the legalization class-action lawsuits, regardless of the date the application for voluntary departure was submitted. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a previously filed and denied application for voluntary departure under the Family Unity Program.

On the Form G-325A, Record of Biographic Information, that was submitted with his LIFE Act application, the applicant specifically acknowledged that he and his wife were married on June 1, 1999 in Texas. As the applicant was married on June 1, 1999, the requisite relationship to his wife did not exist when she may have attempted to apply for legalization in the 1987-88 period. Therefore, the applicant cannot derive status from his wife under section 1104 of the LIFE Act.

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. Such check included the prior application for voluntary departure under the Family Unity Program discussed above, as well as the LIFE Act application. These applications have now been consolidated into the current record of proceedings. Given his inability to meet this requirement, 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.