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U.S. Department of Homeland Security
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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]

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**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, 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 asserts that the applicant should be considered a class member because he attempted to file an application for temporary residence under section 245A of the Immigration and Nationality Act (INA) during the application period, but was turned away by a Service (now Citizenship and Immigration Service, or CIS) employee. Counsel contends that the applicant subsequently filed a legalization application with another CIS employee at the 24th Street office in New York, New York in 1990. Counsel claims that this employee kept the applicant's legalization application and supporting documents, and informed him that he would receive an appointment letter at a later date. Counsel declares that the applicant never received any further correspondence from CIS regarding the application or appointment. Counsel includes photocopies of previously submitted documents.

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.

While the applicant indicates that his wife is also applying for permanent residence under the LIFE Act, the record contains no evidence to demonstrate that his wife filed a written claim for class membership. A review of CIS records reveals that no records relating to his spouse were created prior to the filing of her LIFE Act application on May 28, 2002. Therefore, the applicant cannot derive status through his wife, as there is no evidence that she filed a written claim for class membership before October 1, 2000.

Counsel asserts that the applicant is eligible for permanent residence under the provisions of the LIFE Act because he had attempted to file an application under section 245A of the INA during the application period. While the applicant may have been front-desked (informed that he was not eligible for legalization) when he attempted to file a legalization application, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits.

Counsel contends that the applicant subsequently filed a legalization application with another CIS employee at the 24th Street office in New York, New York in 1990. Counsel claims that this employee kept the applicant's legalization application and supporting documents, and informed him that he would receive an appointment letter at a later date. Counsel declares that the applicant never received any further correspondence from CIS regarding

the legalization application or appointment. However, counsel's contentions regarding this second filing attempt can neither be confirmed nor denied from the record. With his LIFE Act application, the applicant included a Form I-687, Application for Temporary Resident Status under Section 245A of the Immigration and Nationality Act (INA). However, the Form I-687 legalization application is clearly a contemporaneous document as it completed in ink and includes both the applicant's places of residence and jobs through the date he submitted his LIFE Act application on May 10, 2002. Therefore, the applicant could not have submitted the Form I-687 legalization application to CIS prior to the receipt of his LIFE Act application.

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