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U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Citizenship
and Immigration
Services



FILE:



Office: NATIONAL BENEFITS CENTER

Date: APR 27 2004

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:

Self-represented

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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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 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, the applicant indicates that she has applied for and has derivative benefits status under the provisions of the LIFE Act. The applicant requests that her application be approved.

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"). In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership in a legalization class-action lawsuit before October 1, 2000. See 8 C.F.R. § 245a.10.

The applicant failed to submit any documentation addressing this requirement when the application was filed. In response to a Notice of Intent to Deny issued on October 9, 2002, the applicant provided a photocopy of a letter dated September 22, 2000, supposedly sent to former Attorney General Reno, requesting that the applicant be registered in the *CSS v. Meese* class action lawsuit. Pursuant to 8 CFR § 245a.10, a *written claim for class membership* means a filing, in writing, in one of the forms listed in § 245a.14 which provides the Attorney General with notice that the applicant meets the class definition in the cases of *CSS*, *LULAC* or *Zambrano*. The letter does not constitute a "form" and does not equate to the actual forms listed in 8 CFR § 245a.14, although that regulation also states other "relevant documents" may be considered. However, the very brief letter does not even begin to imply that the applicant could qualify for *CSS v. Meese* class membership because it does not provide any relevant information upon which a determination could be made.

Moreover, the applicant does not explain *why*, if this letter were truly in her possession the entire time, she did not submit it with her LIFE application, as applicants were advised to provide evidence *with* their applications. In addition, it must be noted that the applicant is one of many aliens who furnished such identically-worded letters (virtually all dated from September 14th to September 25th, 2000) with their LIFE applications, and yet provided them only upon receiving the Notice of Intent to Deny. It is further noted that all of these aliens had their LIFE applications prepared by [REDACTED] Tax Service, Santa Maria, California. In addition, none of these aliens have provided any evidence, such as postal receipts, which might help demonstrate that the letters were actually sent to the Attorney General. Given the importance of the letters, it would be reasonable to conclude that at least some of the aliens would have sent them via certified or registered mail.

Doubt cast on any aspect of the evidence 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. See *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988).

The applicant, on appeal, claims that she has applied and has obtained derivative benefits status. The applicant, however, has not provided any evidence establishing that either her parent or spouse filed a written claim for class membership in a legalization class-action lawsuit before October 1, 2000.

Nevertheless, 8 C.F.R. § 245a.11(b) requires each applicant to demonstrate that he or she entered the United States prior to January 1, 1982. The applicant was not residing in the United States prior to January 1, 1982, as she was born on November 29, 1982.

Given her inability to meet these 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.