

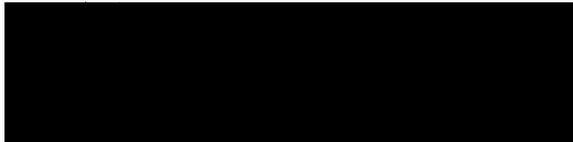
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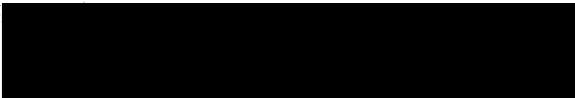
FILE:



Office: National Benefits Center

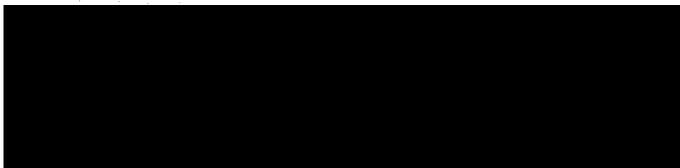
Date:

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:

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 the matter 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 District Director in Portland, Oregon. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The director concluded that the applicant failed to establish that she entered the United States before January 1, 1982 and, therefore, denied the application.

On appeal, the applicant's representative asserts that the applicant entered the United States in January 1981. He contends that the affidavits in the record, attesting to the applicant's arrival in January 1981, are the best available evidence, consistent and credible, and appropriate considering the applicant's circumstances. Counsel also cites a 1989 memorandum of the Immigration and Naturalization Service (INS) advising that, in the adjudication of legalization applications under section 245A of the Immigration and Naturalization Act (INA), credible affidavits should be given favorable consideration in the absence of "full documentary proof."

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 one 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 section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status from before January 1, 1982 through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

In his Notice of Decision, the district director determined that the applicant filed a timely claim for class membership in CSS on June 19, 1990. However, the district director also found that the applicant did not present sufficient evidence that she entered the United States prior to January 1, 1982.

In his appeal brief the applicant's representative states that the applicant has already furnished all available evidence of her entry into the United States in January 1981. The record includes a Form G-325A (Biographic Information) submitted with her LIFE application in November 2001, in which the applicant listed all of her addresses in the United States from 1981 to 2001. In a personal declaration she submitted in December 2002 the applicant described when and how she first came to the United States, where and with whom she lived during the 1980s and 1990s, and why she has little or no documentation from those years. As described by the applicant, and supplemented in the appeal brief, the applicant was already 15 years old when she arrived in the United States, spoke no English, and therefore decided not to go to school. Accordingly, there are no school records from that time. Instead, the applicant asserts that she lived with family members throughout the 1980s and helped with childraising duties. Therefore, the applicant has no rental receipts or bills in her name. Nor does she have any dental or doctor bills since, according to the applicant, she was young and healthy and never saw a dentist or a doctor during her youth.

The record also includes three affidavits from family members or acquaintances of the applicant who assert that they know from personal interaction with her that the applicant came to the United States and began residing in this country in January 1981. These affidavits, one dating from 1990 and the other two from 2001, are the only evidence the applicant has produced, aside from the Form G-325A and her personal declaration, of her entry into the United States before January 1, 1982, and her residence in this country during the ensuing period, 1982-1988, required by the LIFE ACT. The applicant's representative maintains that these

affidavits, under the circumstances, should be sufficient evidence to establish the applicant's entry into the United States before January 1, 1982. The applicant's representative cites the aforementioned INS memorandum in 1989, which provides the following guidance on the evidentiary weight of affidavits in legalization applications under section 245A of the INA:

In those applications where the only documentation submitted is affidavits, if the affidavits are credible and verifiable, are sufficient to establish the facts at issue and there is no adverse information, the application shall be approved. If found insufficient or not credible, attempts to verify the authenticity of the information should be made ...

The AAO agrees with the applicant's representative that the 1989 INS memorandum, applicable to legalization applications under section 245A of the INA, provides equally valid guidance now for adjudicating legalization applications under section 1104 of the LIFE Act. After reviewing the three affidavits submitted by the applicant in this action, the AAO views them as credible, uncontradicted by other evidence in the record, and sufficiently detailed to establish, in conjunction with the applicant's personal declaration and Form G-325A, that the applicant entered the United States in January 1981 and resided in this country throughout the 1980s.

Therefore, the applicant has established her entry into the United States before January 1, 1982, as well as her residence in this country during the ensuing time frame of January 1, 1982 through May 4, 1988, as required for her to be eligible for legalization under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant's appeal will be sustained. The director shall forward the application to the appropriate office for completion of the adjudication.

ORDER: The appeal is sustained.