

PUBLIC COPY

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20529

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services



FILE:



Office: National Benefits Center

Date: **AUG 03 2004**

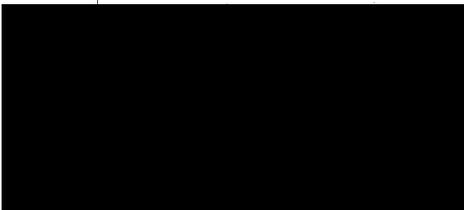
IN RE:

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:



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. 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 Director, Missouri Service Center. It was reopened and denied again by the Director, National Benefits Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The directors 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, the applicant states he has submitted documentation establishing that he had requested class membership. The applicant acknowledges that the date of his marriage was December 1, 1991 but argues that he should derive benefit from his wife's timely application under the LIFE Act because "The customary marriage was done in 1986."

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. That same regulation provides that, 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 from May 5, 1987 to May 4, 1988.

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.

Along with his LIFE application, the applicant submitted a photocopied Form I-687 Application for Status as a Temporary Resident under section 245A of the INA purportedly signed by him on March 16, 1998. On rebuttal to a notice of intent to deny, the applicant provided a questionnaire form issued by the Center for Human Rights and Constitutional Law in Los Angeles. As noted by the director, the applicant also submitted "part of Form I-20 for reentry as F1 nonimmigrant student."

On appeal, the applicant also submits a photocopy of a letter dated August 20, 1997, supposedly sent to former President Clinton and former Attorney General Reno which he entitled: "An Application for Late Amnesty-CSS V. Reno, Newman (LULAC) v. Reno; or Immigrant Assistance Project V. INS." Pursuant to 8 C.F.R. § 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 C.F.R. § 245a.14, although that regulation also states other "relevant documents" may be considered. However, the letter does not even begin to imply that the applicant could qualify for *Zambrano* or

CSS v. Meese or LULAC class membership because it does not provide sufficient information upon which a determination could be made.

Moreover, the applicant does not explain *why*, if this letter were truly in his possession the entire time, he did not submit it with his LIFE application, as applicants were advised to provide evidence *with* their applications.

On appeal, the applicant claims that he provided information regarding his request for class membership but has not been given any specifics as to why his application was denied. However, there is nothing in the record to indicate that he filed an actual claim for class membership. The director also pointed out that a review of all relevant records failed to disclose any indication of the applicant having made a written claim for class membership. Citizenship and Immigration Services has no record of the applicant having filed the Form I-687 in 1998. As the director pointed out, the questionnaire was for the internal use of the Center for Human Rights and Constitutional Law. The applicant did not provide evidence establishing that his wife initially attempted to apply for temporary residence between May 5, 1987 and May 4, 1988. Nor has the applicant provided evidence that he and his spouse participated in a customary marriage in 1986 prior to their marriage in the Roman Catholic Church in Pennsylvania on December 1, 1991. Therefore, the applicant cannot derive status from his spouse under section 1104 of the LIFE Act.

Given his failure to establish that he filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

In addition, as noted by the director above, the applicant submitted part of his Form I-20 nonimmigrant student document as a part of his rebuttal documentation in response to the director's notice of intent to deny. This Form I-20, signed by his International Student Advisor on May 10, 1989, certifies (in part) that he was admitted to the United States at New York City as an F-1 nonimmigrant student on February 11, 1980, that he was approved for part time employment in that same status to December 30, 1985 and again from May 23, 1986 through December 31, 1986 by the Immigration and Naturalization Service (INS), the predecessor of Citizenship and Immigration Services. He was then authorized a period of practical training as a nonimmigrant student from December 31, 1987 to June 31, 1988 by INS while a postgraduate nonimmigrant student. An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States *in an unlawful status* since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b). Absent other information, it appears the applicant cannot meet this criterion because the documentation that he provided seemingly establishes that he was in a lawful nonimmigrant status during an extensive period of time between January 1, 1982 and June 31, 1988, in his role as a lawful nonimmigrant student.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.