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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: Baltimore, Maryland Date:

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]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the Baltimore District Office. 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 Baltimore, Maryland. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The district director concluded that the applicant failed to establish he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000.

On appeal counsel asserts that (1) the applicant did not have the opportunity to interview with Citizenship and Immigration Services about his LIFE application because no alternative date was set after counsel requested rescheduling due to his unavailability on the original date and (2) proof was submitted to the Missouri Service Center in July 2002 of the applicant's timely claim for class membership in the "CSS/LULAC lawsuits."

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.

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.

The record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, on April 26, 1988, as the first step in seeking legalization under section 245A of the Immigration and Nationality Act (INA). Section 245A was added to the INA by the Immigration Reform and Control Act of 1986 (IRCA). The I-687 application was denied by the Southern Regional Processing Facility in Dallas, Texas, on March 5, 1990, because the applicant "failed to assist the [Immigration and Naturalization] Service [INS] in verifying information necessary for proper adjudication of your application," in particular with regard to a 1986 arrest for grand larceny in Oklahoma City. The applicant filed an appeal, but it was dismissed by the Legalization Appeals Unit (now incorporated in the AAO) on October 17, 1995 because the applicant failed to submit evidence of the final court dispositions of various offenses, including two criminal charges in Oklahoma – the aforementioned grand larceny charge and a subsequent shoplifting charge in 1987.

There is no provision in the LIFE Act which authorizes the reopening or reconsideration of applications previously denied under IRCA. Nor does the applicant's prior IRCA application constitute a claim for class membership in one of the subsequent legalization class-action lawsuits, *CSS*, *LULAC*, or *Zambrano*. An alien must have filed a claim for class membership in one of those three lawsuits before October 1, 2000 to be eligible for permanent resident status under section 1104(b) of the LIFE Act, which was enacted on December 21, 2000.

The record also shows that in October 1998 the applicant filed a Form I-485 application for adjustment to permanent resident status on the basis of a relative petition. Along with that application the applicant filed a Form I-601, Application for Waiver of Grounds of Excludability. By decision dated March 8, 2001, the Baltimore District Office denied the I-601 application on the grounds that the applicant had been convicted of two crimes involving moral turpitude (the aforementioned grand larceny and shoplifting offenses), which made him inadmissible to the United States under section 212(a)(2)(A)(i)(I) of the INA and ineligible for the exception clause of section 212(a)(2)(A)(ii) of the INA. The applicant filed an appeal, but it was dismissed by the AAO on December 21, 2001.

Under the LIFE Act, section 1104(c)(2)(D)(i), an applicant for permanent resident status must establish that he or she is admissible to the United States as an immigrant, except as otherwise provided under section 245A(d)(2) of the INA. Section 245A(d)(2) of the INA, which allows the grounds for an alien's exclusion to be waived in certain cases, provides that any provision of section 212(a) of the INA (defining classes of aliens who are ineligible for visas or admission) may be waived on a case by case basis for "humanitarian purposes, to assure family unity, or when it is otherwise in the public interest," unless the grounds for the alien's exclusion involve certain enumerated offenses including, *inter alia*, conviction of a "crime involving moral turpitude" (section 212(a)(2)(A) of the INA). *See* section 245A(d)(2)(B) of the INA.

As already determined by the Baltimore District Office and the AAO in 2001, the applicant has been convicted of two crimes involving moral turpitude. In accordance with section 1104(c)(2)(D)(i) of the LIFE Act, therefore, he is statutorily ineligible for adjustment to permanent resident status.

In view of the applicant's statutory ineligibility for adjustment of status under the LIFE Act, counsel's contention on appeal that the applicant was denied an opportunity to be interviewed on his LIFE application is inconsequential. The same applies to counsel's assertion that the applicant submitted evidence of a class membership claim in "*CSS/LULAC*" to the Missouri Service Center in July 2002. For the sake of completion, the AAO has nonetheless reviewed the subject materials and determined that only one document even mentions the lawsuits. That was an undated form letter from the INS to the applicant with some pre-printed boilerplate language near the bottom stating that "All litigation cases filed under the *LULAC/CSS* lawsuits are entitled ONLY to employment authorization at present. . . . Litigation cases are all in storage in the Northern Service Center . . . DO NOT MAKE INQUIRIES . . . THEY ARE ALL PENDING . . . " At the top of the form, however, the identifier "Legalization" appears just below the applicant's name. Below that a box is checked for "Appeal pending – no final decision issued." Further below another box is checked with the handwritten notation "Card extended to 10/31/93 by sticker on back . . . Appeal forwarded to Legalization Appeals Unit on 6/13/91." It is clear from this language that the INS form letter relates to the applicant's original legalization application (and associated employment authorization) under IRCA. The boilerplate language on the letter referring to "*LULAC/CSS* lawsuits" does not indicate that the applicant filed a claim for class membership in one or the other of those lawsuits. Rather, the language must be read in the context of the entire form letter, which is broadly applicable both to legalization applicants under IRCA and to claimants for class membership in one of the legalization lawsuits. The AAO concludes that the INS letter is not persuasive evidence that the applicant, who had an IRCA application pending on appeal in the early 1990s, had also filed a claim for class membership in *CSS* or *LULAC* at that time. Nor is there any other evidence in the record that the applicant filed a written claim for class membership in *CSS* or *LULAC* (or the other legalization lawsuit, *Zambrano*) before October 1, 2000, as required under section 1104(b) of the LIFE Act.

For the reasons discussed above, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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