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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship and Immigration Services



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AUG 25 2004

FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: [Redacted]

PETITION: 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

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, National Benefits Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the record did not establish the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant submits a statement from her spouse, who asserts that the applicant is applying for adjustment to permanent resident status under the LIFE Act as a derivative applicant based on his having filed a timely claim for class membership. The applicant's spouse further asserts that the denial of the applicant's application was erroneous and should, therefore, be set aside.

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 applicant has failed to submit any documentation indicative of her having filed a timely claim for class membership in any of the aforementioned legalization class-action lawsuits. In response to the notice of intent to deny, the applicant submitted documentation previously provided by her spouse in support of his LIFE application (A93 422 769). The applicant, on appeal, provides a statement from her spouse, who asserts that the applicant is applying for adjustment to permanent resident status under the LIFE Act as a derivative applicant based on his having filed a timely claim for class membership.

The record includes a February 7, 2004 interoffice memorandum from the National Benefits Center indicating the applicant's spouse has been determined by Citizenship and Immigration Services (CIS) to have filed a timely claim for class membership in LULAC. However, an examination of the record shows that the applicant and her spouse were not married until *December 6, 1991*. As such, notwithstanding the fact that the applicant's spouse has been determined by CIS to have filed a timely application for class membership, the requisite relationship to the applicant did not exist during the aforementioned May 5, 1987 to May 4, 1988 period for applying for legalization. For this reason, the applicant cannot claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

Given her failure to establish that she filed a timely written claim for class membership, along with her inability to claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10, 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.