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

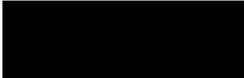


U.S. Citizenship
and Immigration
Services



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FILE:



Office: NATIONAL BENEFITS CENTER

AUG 25 2004

Date:

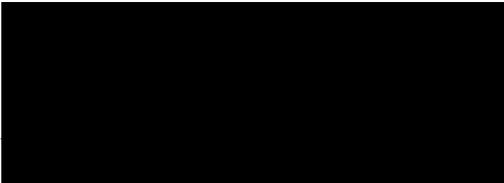
IN RE:

Applicant:



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:



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.

Handwritten signature of Robert P. Wiemann

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 is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the applicant had not established 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, counsel for the applicant asserts the applicant had attempted to file an application for class membership in LULAC with the Immigration and Naturalization Service or INS (now, Citizenship and Immigration Services or CIS) in August 1991, but her application was not accepted.

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.

With her LIFE application, the applicant submitted the following:

- a photocopied Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which is signed by the applicant on August 29, 1991; and
- a photocopy of an Affidavit for Determination of Class Membership in LULAC, which is also signed by the applicant on August 29, 1991.

The photocopied submissions provided by the applicant may be considered as evidence of having made a written claim for class membership, pursuant to 8 C.F.R. 245a.14(d). However, there is no indication in CIS computer or administrative records that the I-687 application or the class membership determination affidavit had ever been filed by the applicant or received by CIS.

In response to the notice of intent to deny, counsel for the applicant submits a statement in which he asserts that the applicant had attempted to file an application for class membership at an INS office but that her application was rejected by an unspecified officer during the course of her interview. However, counsel's assertion regarding what may or may not have transpired on this occasion can be neither confirmed nor denied based on the record.

In addition, counsel submitted a photocopy of a Legalization Front-Desking Questionnaire signed by the applicant on July 10, 2000. However, if the applicant had, in fact, submitted this questionnaire to CIS on July 10, 2000, as claimed, a file would normally have been created at that point. However, a CIS file was never created for the applicant until after receipt of her LIFE application on December 24, 2002. Moreover, the applicant does not explain why, if this questionnaire had truly been in her possession the entire time, it was not submitted initially along with her LIFE application, but only after her application was denied. Applicants for LIFE eligibility were advised to provide any and all qualifying evidence *with* their applications. The

applicant's failure to submit this document initially, or to explain why she did not, creates suspicion regarding its authenticity.

It is concluded that the photocopied documents submitted by the applicant fail to credibly establish that she filed a timely written claim for class membership, as required in section 1104(b) of the LIFE Act. The applicant is, therefore, 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.