



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted]

Office: National Benefits Center

Date:

AUG 31 2004

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: Self-represented

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.

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Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the applicant failed to establish that she or her husband, through whom she asserts derivative eligibility for LIFE legalization, filed a claim for class membership in one of the requisite legalization class-action lawsuits before October 1, 2000.

On appeal the applicant's husband, Oswaldo Orozco-Marmolejo (A93 423 003), asserts that he filed a timely claim for class membership and that his wife is entitled to LIFE legalization as a beneficiary of his application.

To be eligible for permanent resident status under section 1104 of the LIFE Act, an alien 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.

In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership in a legalization class-action lawsuit 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 legalization during the original filing period of May 5, 1987 to May 4, 1988. See 8 C.F.R. § 245a.10.

An alien applying 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 in an unlawful status continuously through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

The record indicates that the applicant's husband filed a timely claim for class membership in *LULAC*. However, the applicant is not derivatively eligible for LIFE legalization simply because her husband applied. The applicant's derivative eligibility depends on whether she was married to her husband during the original filing period for legalization in 1987-88. The applicant and her husband were married on March 24, 1990. Thus, the marital relationship did not exist during the requisite time period – May 5, 1987 to May 4, 1988 – set forth in the regulation, 8 C.F.R. § 245a.10.

Moreover, every "eligible alien" – *i.e.*, not only the original applicant but also any spouse or child of that applicant – must establish that he or she entered the United States before January 1, 1982 and resided in the country continuously in an unlawful status through May 4, 1988. The record indicates that the applicant did not enter the United States until November 12, 1998. Thus, she did not reside continuously in the United States during the requisite time period set forth in the statute, section 1104(c)(2)(B)(i) of the LIFE Act, and the regulation, 8 C.F.R. § 245a.11(b).

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.