

12



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

DEC 30 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:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the office that originally decided your case. If your appeal was sustained, or if your case 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

PUBLIC COPY

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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

The directors both 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 from the initial denial, the applicant reiterated his claim to class membership.

The record shows that subsequent to the reopening of the case, the applicant was afforded the opportunity to submit additional material to supplement the appeal. The applicant subsequently forwarded additional documentation to supplement his appeal. Therefore, this material shall be incorporated into the applicant's appeal.

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.

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 applicant neither claimed nor documented that he had applied for class membership in any of the requisite legalization lawsuits in his LIFE Act application. Rather, the record shows that the applicant timely filed a Form I-687, Application for Temporary Resident Status under Section 245A of the Immigration and Nationality Act (INA) on December 23, 1987. The Form I-687 legalization application was subsequently approved on August 4, 1988. However, the applicant's Form I-698, Application to Adjust Status from Temporary to Permanent Residence under Section 245A of the INA, was denied on November 17, 1992, as he had failed to file this application within forty-three months of being granted temporary residence. Section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of the matter, as the original application for temporary resident status under section 245A of the INA had been filed by the applicant in a timely manner.

The record reflects all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. Such check included the separate file, A23 331 923, Record of Deportable Alien, into which the current LIFE Act application as well as the separate file, A91 230 522, Form I-687 legalization application and related documents, have been consolidated. Given his failure to document that he timely filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

It must be noted, however, that the Immigration and Naturalization Service, or the Service (now Citizenship and Immigration Services, or CIS) has never instituted proceedings to terminate the applicant's status as a temporary resident resulting from the prior approval of his Form I-687 legalization application on August 4, 1988. Therefore, once processing of the denied application and dismissed appeal for permanent residence under section

1104 of the LIFE Act is complete, the entire file shall be forwarded to the appropriate service center for a final determination regarding the applicant's eligibility as a temporary resident under section 245A of the INA.

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