

PUBLIC COPY L 2

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

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



**U.S. Citizenship
and Immigration
Services**

FILE: [REDACTED]

Office: National Benefits Center

Date: FEB 12 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.

A handwritten signature in cursive script, appearing to read "Robert P. Wiemann for".

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 record did not establish that the applicant or her husband had (1) applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000, or (2) resided unlawfully in the United States for the requisite time period of January 1, 1982 to May 4, 1988, and therefore denied the application.

On appeal, the applicant reasserts that she is "applying under my husband's status," but provides no new documentation or explanation as to how she qualifies for permanent resident status under the LIFE Act.

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.

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.

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 does not even assert, much less submit any supporting documentation, that she or her husband, Jose Palaguachi, filed a written claim for class membership in any of the three legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, prior to October 1, 2000, as required for eligibility under section 1104(b) of the LIFE Act. Nor are there any records within CIS which demonstrate that the applicant or her husband applied for class membership.

Even if there were evidence that the applicant's husband had filed a timely claim for class membership, the applicant could not claim derivative status as a class member through her husband because they were not married until October 21, 1998. Thus, the marital relationship did not exist during the requisite time period of May 5, 1987 to May 4, 1988, set forth in the regulation, 8 C.F.R. § 245a.10.

Furthermore, section 1104(c)(2)(B)(i) of the LIFE Act requires that the applicant have entered the United States before January 1, 1982, and resided in this country continuously in an unlawful status through May 4, 1988. The applicant states in her LIFE application that she has resided in the United States since 1985, and gives May 1985 as her "date of last arrival." The record also includes a sworn statement from the applicant's brother-in-law that his brother (the applicant's husband) entered the United States illegally on September 12, 1985. Based on the foregoing information it is clear that neither the applicant nor her husband resided unlawfully in the United States for the requisite time period of January 1, 1982 to May 4, 1988.

Thus, the record fails to establish (1) that the applicant, or her husband, filed a written claim for class membership in one of the legalization lawsuits, *CSS*, *LULAC*, or *Zambrano*, prior to October 1, 2000, as

required under section 1104(b) of the LIFE Act, (2) that the applicant and her husband were married during the period of May 5, 1987 to May 4, 1988, as required under 8 C.F.R. § 245a.10 for a claim of derivative class member status, or (3) that the applicant, or her husband, resided unlawfully in the United States continuously from January 1, 1982 to May 4, 1988, as required under section 1104(c)(2)(B)(i) of the LIFE Act.

For all of 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.