

L2

U.S. Department of Homeland Security
Citizenship and Immigration Services

PUBLIC COPY

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



JAN 02 2004

FILE:

Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant:



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:



Identifying data deleted to
prevent unauthorized
invasion of personal privacy

INSTRUCTIONS:

Attached is the decision rendered on your appeal. 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.

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

The director 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, the applicant asserted that he had applied for class membership and that he had already submitted the only documentary proof he had thereof. The applicant requested that his documents be reviewed again.

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.

As the director noted in his decision, two documents were submitted by the applicant that pertain to his alleged claim for class membership. One is a letter to the applicant from Citizenship and Immigration Services' (CIS) Vermont Service Center, dated December 1, 2000, denying his Application for Employment Authorization, Form I-765. The letter stated that the I-765 application had been filed on June 30, 2000 "based upon your claim that you have a Form I-687, Application for Status as a Temporary Resident, pending pursuant to . . . Section 245A of the Immigration and Nationality Act." Nothing in the letter indicates that the I-687 at issue was filed by the applicant in connection with a written claim for class membership in one of the legalization lawsuits, CSS, LULAC, or Zambrano. In fact, the letter stated that CIS had no information regarding any case of the applicant's.

The second document is also a letter from the Vermont Service Center, dated January 23, 2001, addressed to the applicant's daughter, [REDACTED]. That letter, like the one sent to her father, was in response to a Form I-765 (Application for Employment Authorization) and stated that "Service [CIS] records indicate you are a class member or a class member applicant of the class action lawsuit, CSS vs. Reno." While 8 C.F.R. § 245a.10 defines an "eligible alien" under the LIFE Act as including a spouse or child of an applicant for class membership (as of the time of the original "front-desking" in 1987 or 1988), the regulation does not extend such derivative status to the parent of an applicant. So the letter to [REDACTED] cannot

confer derivative eligibility on her father, the applicant herein. Thus, neither letter from the Vermont Service Center establishes that the applicant filed a timely written claim for class membership in *CSS* or one of the other two legalization lawsuits, as required under section 1104(b) of the LIFE Act.

Furthermore, section 1104(c)(2)(B)(i) of the LIFE Act requires the applicant to establish that he entered the United States before January 1, 1982, and resided in this country continuously in an unlawful status through May 4, 1988. On his LIFE application the applicant indicated that his "date of last arrival" in the United States was January 1986. The applicant offers no evidence of any earlier residence in the United States. Thus, the record does not demonstrate that the applicant resided unlawfully in the United States for the requisite time period to be eligible for legalization under the LIFE Act.

It is also noted that evidence in the record shows the applicant's daughter, [REDACTED], was born on October 15, 1986. Thus, she could not have resided unlawfully in the United States for the requisite time period - January 1, 1982 through May 4, 1988 - to have her application for class membership approved. Even if the regulations did allow the applicant to claim derivative status from his daughter, therefore, the daughter herself is ineligible under the LIFE Act for class membership in *CSS* or either of the other two legalization lawsuits.

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.