

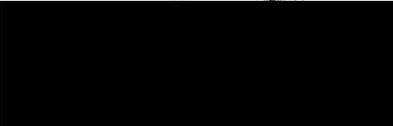
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U.S. Department of Homeland Security

Citizenship and Immigration Services

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



JAN 13 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: Self-represented

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.

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 before the Administration 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 asserts that she tried "to apply for CSS late amnesty" but that an "INS officer . . . did not let me turn in my application because he said I already had one with [the] farm worker program."

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 filed a timely application for temporary resident status as a special agricultural worker (SAW) under section 210 of the Immigration and Nationality Act (INA) on September 20, 1988. The application was denied on July 29, 1991. The applicant appealed the denial on September 30, 1991, but the appeal was dismissed as untimely by the Legalization Appeals Unit (predecessor to the AAO) on October 26, 1998. An application for SAW status, however, does not constitute an application for class membership in any of the legalization class-action lawsuits, as required under section 1104(b) of the LIFE Act. Furthermore, the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

While the applicant claims that she attempted to apply for class membership in CSS, she has not provided any evidence to corroborate this claim. The documentation submitted by the applicant all relates to her SAW application under section 210 of the INA. The applicant has not provided any of the documents

listed in 8 C.F.R. § 245a.14 which could indicate that she applied for class membership in CSS or one of the other two legalization lawsuits, as required under section 1104(b) of the LIFE Act. Nor are there any records within CIS which show that the applicant applied for class membership in one of the requisite lawsuits.

Furthermore, section 1104(c)(2)(B)(i) of the LIFE Act requires the applicant to establish that she entered the United States before January 1, 1982, and resided in this country continuously in an unlawful status through May 4, 1988. From the documentation previously generated in her SAW application, it appears that the applicant did not arrive in the United States until September 1982. The applicant offers no evidence of any earlier residence in this country. 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.

The applicant's son has a separate LIFE application, file number [REDACTED] which was denied by the Director, Missouri Service Center, on the same day as his mother's. The son did not file an appeal in his own right, but his mother wishes to include him in her appeal. There is no provision in the LIFE Act or its implementing regulations allowing such an appeal. Rather, as provided in 8 C.F.R. § 245a.20(a)(2) an applicant must appeal in his or her own right. In the interest of expediency, however, the son's eligibility will now be addressed.

While the LIFE Act can confer derivative status on the child of an eligible alien, both parties must meet the eligibility requirements of the Act, including the continuous residency requirement of section 1104(C)(2)(b)(i). Aside from the apparent fact that his mother did not enter the United States until after January 1, 1982, the record is clear that the son was not born until July 2, 1983. Therefore, he could not have lived in the United States continuously in an unlawful status from January 1, 1982 through May 4, 1988, as required for legalization under the LIFE Act. Moreover, the failure of the applicant to establish that she filed a claim for class membership in one of the legalization lawsuits, as required under section 1104(b) of the Act, *ipso facto* defeats her son's claim of derivative class membership.

Based on the evidence of record, therefore, it is concluded that 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.