

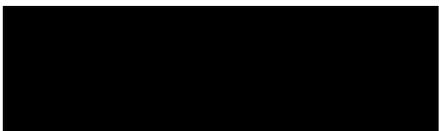
PUBLIC COPY

U.S. Department of Homeland Security

Citizenship and Immigration Services

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

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



FILE:



Office: National Benefits Center

Date:

JAN 13 2004

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was initially denied by the Director, Missouri Service Center. It was reopened and denied again by the Director, National Benefits Center. It is now on appeal before the Administrative Appeals Office (AAO). 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 appears to acknowledge that he never filed a claim for class membership in one of the requisite legalization class action lawsuits. After identifying the three lawsuits the applicant states "I believe it is not my case." He appeals for the reconsideration of his case on humanitarian grounds.

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 March 9, 1988. The application was denied on June 1, 1992. The applicant filed an appeal, which was ultimately dismissed by the AAO on July 6, 1999. 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's Form I-485 (LIFE Application), contains a reference to "LULAC" in the box entitled "Current INS Status," that entry is not further explained anywhere in the record. The applicant has not specifically asserted, much less submitted any

documentary evidence, that he applied for class membership in LULAC or either of the other two legalization lawsuits, CSS or Zambrano. The pertinent documentation submitted by the applicant all relates to his SAW application under section 210 of the INA. The applicant has not provided any of the materials listed in 8 C.F.R. § 245a.14 which could indicate that he applied for class membership in one of the 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 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 stated that his "date of last arrival" in the United States was December 15, 1984. 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 indicated on his LIFE application that his wife, [REDACTED] whom he married in 1996, was also applying under the LIFE Act, though CIS has no record that any application was actually filed by [REDACTED]. LIFE Act eligibility, in any event, only extends to spouses of class members who were already married at the time the applicant originally attempted to file a claim for legalization in accordance with section 245A(a) of the INA - i.e., between May 5, 1987 and May 4, 1988. See 8 C.F.R. § 245a.10. Thus, even if one spouse were to establish that he or she did file a written request for class membership, the other spouse could not derive eligibility under the LIFE Act due to the late time frame of the marriage.

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.