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



LA

FILE:



Office: NATIONAL BENEFITS CENTER

Date: **MAR 02 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:

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.

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 was reopened and denied again by the Director, National Benefits Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions, the directors 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 of the initial decision, the applicant asserted that, since 1995, he and his family have been unsuccessful in their attempts at applying for adjustment of status to that of permanent resident.

The applicant does not respond to the subsequent decision.

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 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. That same regulation provides that, in the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership 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 temporary residence (legalization) in the period of May 5, 1987 to May 4, 1988.

The applicant failed to submit any documentation along with his LIFE application to establish his having filed a written claim for class membership. Nor has he provided any documentation regarding that point in response to the notice of intent to deny or, subsequently, on appeal.

On his LIFE application, the applicant indicated that he was applying for adjustment to permanent resident status under the LIFE Act as a derivative applicant based on his having been the beneficiary of an I-130 Petition for Alien Relative filed by his father, a Lawful Permanent Resident. However, there is no evidence in Citizenship and Immigration Services (CIS) administrative or electronic records to indicate that any I-130 petition was filed on the applicant's behalf by his father. Moreover, as noted in the director's decision, Lawful Permanent Residents may only file an I-130 relative petition for *unmarried* sons or daughters. In this case, the applicant's LIFE application indicates he was married on *July 14, 1999*. In any case, the filing of an I-130 relative petition is a proceeding which is outside the jurisdiction of the LIFE Act. Finally, the applicant has submitted no evidence, nor is there any indication in Citizenship and Immigration Services (CIS) records, to indicate that the applicant's father or any other member of his family has filed a timely application for class membership. As such, the applicant cannot claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

Given the applicant's inability to meet this requirement, along with his failure to establish that he filed a timely claim for class membership in any of the aforementioned legalization class-action lawsuits, he is ineligible for permanent residence under section 1104 of the LIFE Act.

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