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U.S. Citizenship
and Immigration
Services



LA

FILE: [Redacted]

Office: NATIONAL BENEFITS CENTER

Date JUL 02 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.

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 she 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 she is applying for adjustment to permanent resident status under the LIFE Act as a derivative applicant based on the fact that her spouse is the beneficiary of an I-130 relative petition filed by his father.

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 her LIFE application to establish her having filed a written claim for class membership. Nor has she provided any documentation regarding that point in response to the notice of intent to deny or, subsequently, on appeal.

On appeal of the service center director's decision, the applicant asserted that she is applying for adjustment to permanent resident status under the LIFE Act as a derivative applicant based on the fact that her spouse is the beneficiary of an I-130 relative petition filed by his father. However, the filing of an I-130 relative petition is a proceeding which is separate and distinct from that of applying for permanent resident status under the LIFE Act. The applicant has submitted no evidence, nor is there any indication in Citizenship and Immigration Services (CIS) records, to indicate that either the applicant's spouse or his father had 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.

In addition, a marriage certificate provided by the applicant along with LIFE application indicates that she and her husband were not married until *July 14, 1999*. As such, even if the applicant's spouse *had* been determined to have filed a timely application for class membership, the applicant could not claim derivative status based on her husband since the requisite family relationship did not exist as of *May 4, 1988* -- the

termination of the application period for temporary resident status under section 245A of the Immigration and Nationality Act (INA).

Given her inability to meet this requirement, along with her failure to establish that she filed a timely claim for class membership in any of the aforementioned legalization class-action lawsuits, the applicant 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.