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U.S. Citizenship and Immigration Services

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[redacted]

JUL 07 2004

FILE: [redacted] Office: National Benefits Center Date:

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 Houston District Office. 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, National Benefits Center. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the applicant failed to establish she filed a claim for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000.

On appeal the applicant asserts that there are three documents in the record – (1) a "LULAC Class Membership Declaration," (2) an I-687 Application for Status as a Temporary Resident, and (3) a "Front Desk Questionnaire" – proving that she filed a timely claim for class membership in the *LULAC* lawsuit, *infra*.

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 one 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* section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that he or she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status from before January 1, 1982 through May 4, 1988. *See* section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

With her LIFE application (Form I-485) the applicant submitted a photocopy of a Form I-687 application, signed by her and dated October 5, 1989. There is no evidence in the record, however, such as a postal receipt or an acknowledgement letter from the Immigration and Naturalization Service (INS), now Citizenship and Immigration Services (CIS), that an original I-687 form was actually filed with the INS in 1989, as alleged. In fact, INS (CIS) has no record of receiving the I-687 from the applicant until the instant LIFE application was filed on October 28, 2002. That was more that two years after the statutory deadline to file a claim for class membership in one of the legalization lawsuits.

In response to the director's Notice of Intent to Deny the applicant submitted photocopies of a *LULAC* Class Member Declaration, signed by her and dated May 29, 1996, and a Legalization Questionnaire, signed by her and dated October 12, 2000. As with the earlier I-687 form, the applicant has not furnished any evidence, such as postal receipts or acknowledgement letters from the INS, that originals of the *LULAC* Class Member Declaration and the Legalization Questionnaire were actually submitted to the INS in 1996 and 2000, as alleged. CIS has no record of receiving either document until March 31, 2003, in response to the Notice of Intent to Deny. That was two and a half years after the statutory deadline to file a claim for class membership in one of the legalization lawsuits. In fact, the Legalization Questionnaire would not qualify as a timely claim for class membership under any circumstances because its date – October 12, 2000 – was already past the statutory deadline.

Thus, the record does not establish that the applicant filed a claim for class membership in *LULAC*, or either of the other legalization lawsuits, before October 1, 2000, as required under section 1104(b) of the LIFE Act.

Furthermore, the "continuous residence" requirement set forth in section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b) is defined in 8 C.F.R. § 245a.15(c)(1) as follows:

> An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded forty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed.

In a personal declaration she submitted with her LIFE application, dated October 22, 2002, and in the *LULAC* Class Member Declaration she submitted on March 31, 2003, in response to the Notice of Intent to Deny, the applicant stated that she departed the United States on December 5, 1987 to get married in Cali, Colombia, and returned to the United States on January 24, 1988. That was an absence of 50 days from the United States – more than the 45-day maximum allowed by the foregoing regulation, 8 C.F.R. § 245a.15(c)(1). There is no evidence of any "emergent reasons" – *i.e.*, reasons "coming unexpectedly into being," as held in *Matter of C –* , 19 I & N Dec. 808, Comm. 1988) – that prevented her from returning earlier to the United States. Thus, the applicant does not satisfy the statutory requirement, set forth in section 1104(c)(2)(B)(i) of the LIFE Act, of having resided in the United States in an unlawful status continuously from before January 1, 1982 through May 4, 1988.

For the reasons discussed above, the applicant has failed to establish her eligibility for permanent resident status under section 1104 of the LIFE Act.

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