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U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

Date:

IN RE:

Applicant:

[Redacted]

JUL 14 2004

PETITION:

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:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. 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.

PUBLIC COPY

Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, National Benefits Center, and is now before the Administrative 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, counsel for the applicant asserts that, in setting forth the applicant's ineligibility due to his criminal record, the denial notice merely cites "violations" having been committed by applicant, rather than "convictions," as required for a finding of ineligibility.

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 failed to submit any documentation addressing this requirement when the application was filed, in rebuttal to the notice of intent to deny, or on appeal. The applicant does provide documentation relating to the prior adjudication of a separate application he had submitted for temporary resident status under section 245A of the Immigration and Nationality Act (INA). A review of the record shows that the applicant timely filed a Form I-687 Application for Status as a Temporary Resident under Section 245A of the INA, which was filed April 30, 1988, and that the application was initially granted. The record indicates that the applicant's temporary resident status was subsequently terminated on March 9, 1998 due to the applicant having been found to be statutorily ineligible by reason of his having been convicted of four misdemeanors. The applicant's appeal of the termination of his application was dismissed by the AAO on September 19, 1994.

The record also indicates the applicant filed a Form I-698 Application to Adjust Status from Temporary to Permanent Resident, which was denied on September 14, 1990 by reason of the applicant's criminal record. In any case, the applicant having filed Form I-687 and Form I-698 applications does not constitute a written claim for class membership in a legalization class-action lawsuit. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of timely filed applications for

temporary resident status or for adjustment from temporary to permanent resident status under section 245A of the INA.

The applicant has submitted no documentation indicative of his having filed a timely written claim for class membership in any of the aforementioned legalization class-action lawsuits. Given this, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

In his denial decision, the director also indicated that the applicant was ineligible for adjustment to permanent resident status under the LIFE Act by reason of his criminal record. In his appeal of the director's decision, counsel asserts that, in setting forth the applicant's ineligibility due to his criminal record, the denial notice merely cites "violations" by the applicant, rather than actual "convictions", as required for a finding of ineligibility. Counsel is correct in noting that the decision initially refers to "violations" on the applicant's part (as opposed to "convictions"). Nevertheless, the decision thereafter proceeds to list *three* specific occurrences in which the applicant had pled *guilty* to two separate counts of assault and assault/damaging property, respectively, and had pled *nolo contendere* to a third count of assault.

It should also be noted in this regard that, in its prior decision of March 9, 1998 to terminate the applicant's temporary resident status, the Immigration and Naturalization Service or INS (now, Citizenship and Immigration Services or CIS) determined that the applicant had been convicted of no less than *four* different misdemeanor convictions. Thus, the aforementioned assault charges enumerated in the current decision are actually augmented by four *additional* prior misdemeanor convictions involving the applicant. An alien who has been convicted of one felony *or* three or more misdemeanors committed in the United States is ineligible for adjustment to permanent resident status under LIFE Legalization. *See* 8 C.F.R. § 245a.11(d)(1). Clearly, the applicant is ineligible to adjust to permanent resident status under section 1104 of the LIFE Act.

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