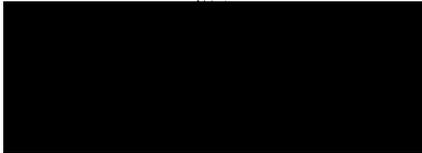


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U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy



*[Handwritten Signature]*  
JUL 20 2004

FILE: 

Office: NATIONAL BENEFITS CENTER

Date:

IN RE: Applicant: 

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: Self-represented

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.

*[Handwritten Signature]*

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, 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, the applicant asserts that the evidence he has submitted should suffice to establish his having filed a timely claim for class membership in CSS/LULAC.

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.

With his LIFE application, the applicant provided the following:

- a photocopy of a Form I-695 Application for Replacement for Form I-688A Employment Authorization or Form I-688 Temporary Residence Card;
- a photocopy of an August 4, 1988 communication from the Immigration and Naturalization Service (INS) or the Service (now, Citizenship and Immigration Services) acknowledging the applicant's submission of an application for legalization, and notifying him he was to be interviewed on September 16, 1988; and
- a photocopy of a notice reflecting that he was to be interviewed at the Manhattan Legalization Office of INS on April 14, 1989, regarding his legalization application;

However, these documents pertain to employment authorization and interview scheduling involving a prior adjudication of an application submitted by the applicant for temporary resident status under section 245A of the Immigration and Nationality Act (INA). The record indicates that the applicant had timely filed his application for temporary resident status under section 245A of the INA on May 2, 1988. That application was subsequently denied by the District Director, New York, on April 17, 1989. In any case, an application for legalization under section 245A of the INA does not constitute an application for class membership in any of the legalization class-action lawsuits. Furthermore, section 1104 of the LIFE Act contains no provision

allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status under section 245A.

Subsequently, in response to the notice of intent to deny, the applicant submitted a photocopy of a January 14, 2003 communication from the Director, Vermont Service Center, to the applicant. This communication concerned a Legalization Questionnaire which the applicant claimed to have filed previously. In his communication, the center director disputed the applicant's claim, stating that the applicant had failed to provide credible evidence to support his claim. In any case, as indicated in the denial decision, the questionnaire referenced in the center director's communication was *not* timely as it was signed and dated *January 22, 2001*, which is *subsequent* to the October 1, 2000 deadline for filing an application for class membership.

Given his failure to establish that he filed a timely written 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.

Furthermore, under section 1104(c)(2)(B)(i) of the LIFE Act each applicant for permanent resident status must establish that he or she entered and commenced residing in the United States *prior to January 1, 1982*. The record includes a G-325A Biographic Information Form which the applicant had completed on March 25, 1997 in connection with a prior Service proceeding. On this form, the applicant indicated that he resided in his native Ecuador from his birth on July 8, 1963 until *September 16, 1986*. Given the applicant's inability to meet the statutory requirement of residence in the U.S. since before January 1, 1982, he is ineligible for permanent residence under section 1104 of the LIFE Act on this basis as well.

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