



U.S. Citizenship
and Immigration
Services

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[Redacted]

JUN 4 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 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 acknowledges that she has only resided in the United States since 1993, but asserts that she is applying for adjustment to permanent resident status under the LIFE Act as a derivative applicant based on her husband's having filed a claim for class membership.

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 has failed to submit any documentation indicative of having filed a timely claim for class membership in any of the aforementioned legalization class-action lawsuits. On appeal and at item 2h. of her LIFE application, the applicant indicated she was applying for permanent resident status under the LIFE Act based on her husband's status. However, the applicant has submitted no documentation indicative of her husband's having filed a timely application for class membership. Moreover, according to Citizenship and Immigration Services (CIS) administrative and electronic records, the LIFE application submitted by the applicant's spouse has already been denied.

In addition, as indicated in the director's decision, according to documentation included in the file of the applicant's spouse, the applicant and her husband were not married until *November 12, 1996*. As such, the requisite family relationship to her spouse did not exist as of *May 4, 1988* -- the termination of the application period for filing for temporary residence (legalization) under section 245A of the Immigration and Nationality Act (INA). Therefore, even if the applicant's spouse *had* been eligible for class membership, the applicant would still be unable to claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

Given her inability to establish that she or her spouse filed a timely claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

It is further noted that an applicant for permanent resident status under section 1104 of the LIFE Act must establish entry into the United States before *January 1, 1982* and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b). The applicant acknowledges on appeal that she first entered and began residing in the United States in *1993*. Accordingly, the applicant 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.