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U.S. Citizenship
and Immigration
Services



FILE: [REDACTED] Office: NATIONAL BENEFITS CENTER

Date: **MAR 04 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.

A handwritten signature in black ink that reads "Dennis M. Kopf" with "for" written below it.

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 is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the record did not establish the applicant had applied for class membership in one of the requisite legalization class-action lawsuits prior to October 1, 2000 and, therefore, denied the application.

On appeal, the applicant 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 in the Catholic Social Services (CSS) legalization class-action lawsuit.

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.

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. See 8 C.F.R. § 245a.10.

The applicant failed to submit any documentation addressing this requirement when the application was filed. In response to the Notice of Intent to Deny and, subsequently, on appeal, the applicant asserted she was applying as a derivative applicant based her husband's having applied for class membership. In support of this assertion, the applicant indicated she was attaching a copy of her spouse's correspondence regarding his class membership in the CSS class-action lawsuit. However, a review of the record of proceedings fails to disclose such correspondence. Rather, in response to the notice of intent to deny, the applicant submitted correspondence from a religious organization indicating that she has been a member since 1999. Neither this submission nor any of the documentation submitted by the applicant are indicative of her or her spouse's having filed a timely application for class membership. Nor is there any evidence in Citizenship and Immigration Services (CIS) records that the applicant's spouse has ever filed a written application for class membership.

Moreover, even if the applicant's spouse had, in fact, applied for class membership, an examination of the record shows that the applicant and her spouse were not married until June 18, 1999. As such, the requisite relationship to her spouse did not exist during the aforementioned 1987-1988 period for applying for legalization. Therefore, the applicant, in any case, cannot claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

Accordingly, given her failure to document that she or her spouse filed a timely written claim for class membership, 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.