

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



**U.S. Citizenship
and Immigration
Services**

[Redacted]

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.

for
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, 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 she 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 she is submitting additional documentation which had not previously been included.

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 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 indicative of having applied for class membership at the time her application was filed. In response to the notice of intent to deny, the applicant submitted a letter to the Immigration and Naturalization Service (now, Citizenship and Immigration Services or CIS) indicating that she was seeking derivative status under the provisions of the LIFE Act based on her husband's purported eligibility. Subsequently, on appeal, the applicant submits the following documents:

- a photocopied a Form I-687 Application for Status as a Temporary Resident under Section 245A of the Immigration and Nationality Act, which was purportedly signed by the applicant's husband on September 12, 1996; and
- a photocopied Form for Determination of Class Membership in *CSS v. Meese*, which was allegedly signed by the applicant's husband on "11/96."

Pursuant to 8 C.F.R. § 245a.14, these documents could possibly suffice as evidence of having requested class membership. However, according to the center director, an examination of CIS administrative and computer records fails to show that the applicant's husband had ever filed a timely application for class membership in one of the three legalization class-action suits. Nor was there any indication in these records that the

photocopied documents purportedly signed by the applicant's spouse had ever been received by CIS. Moreover, the applicant fails to explain *why*, since she specified at item 2(h) on her LIFE application that she was applying on a derivative basis predicated on her husband's having filed for class membership, these photocopied documents had not been submitted along with her LIFE application or even in rebuttal to the director's Notice of Intent to Deny. It is noted that applicants are directed to furnish qualifying evidence *with* their applications. The applicant's failure to submit the documents initially and later, on rebuttal, and her failure to explain why she did not, creates suspicion regarding the authenticity of the documents.

In addition, as noted by the director in his decision, an examination of the record indicates the applicant and her spouse were not married until *February 9, 1997*. As the family relationship with her spouse did *not* exist as of May 4, 1988, the applicant cannot, in any case, claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10. The applicant has failed to establish that either she or her spouse had filed a timely application for class membership in any of the aforementioned legalization class-action lawsuits. She is, therefore, ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

It should also be noted that the applicant indicated on her Form I-485 LIFE Act Application that she last entered the United States in 1991. Pursuant to 8 C.F.R. § 245a.11(b), each applicant must demonstrate that he or she entered and commenced residing in the United States prior to January 1, 1982. In this case, however, the applicant has provided absolutely *no* evidence of any residence in this country prior to 1997. As such, it appears that the applicant is unable to meet this requirement as well.

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