

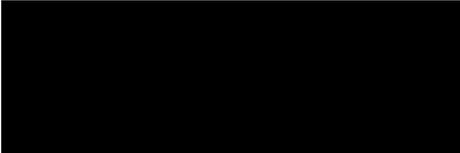
PUBLIC COPY

**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**



FILE:



Office: NATIONAL BENEFITS CENTER

MAR 29 2004
Date:

IN RE:

Applicant:



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:



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 your case 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, appearing to read 'Robert P. Wiemann' 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, 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 asserts that the applicant should be considered a class member because he attempted to file an application for temporary residence under section 245A of the Immigration and Nationality Act (INA) during the application period, but was turned away by a Service (now Citizenship and Immigration Service, or CIS) employee. Counsel contends that the applicant subsequently filed a legalization application with another CIS employee at the 24th Street office in New York, New York in 1990. Counsel claims that this employee kept the applicant's legalization application and supporting documents, and informed him that he would receive an appointment letter at a later date. Counsel declares that the applicant never received any further correspondence from CIS regarding the application or appointment. Counsel includes photocopies of previously submitted documents.

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.

Counsel asserts that the applicant is eligible for permanent residence under the provisions of the LIFE Act because he had attempted to file an application under section 245A of the INA during the application period. While the applicant may have been front-desked (informed that he was not eligible for legalization) when he attempted to file a legalization application, this action alone does not equate to having filed a written claim for class membership in any of the requisite legalization class-action lawsuits.

Counsel contends that the applicant subsequently filed a legalization application with another CIS employee at the 24th Street office in New York, New York in 1990. Counsel claims that this employee kept the applicant's legalization application and supporting documents, and informed him that he would receive an appointment letter at a later date. Counsel declares that the applicant never received any further correspondence from CIS regarding the legalization application or appointment. However, counsel's contentions regarding this second filing attempt can neither be confirmed nor denied from the record. Moreover, neither the applicant nor counsel has provided any evidence that would tend to corroborate these contentions.

The record reflects that all appropriate indices and files were checked and it was determined that the applicant had not applied for class membership in a timely manner. Such check included separate files, [REDACTED] Record of Deportable Alien, and [REDACTED] which contained a prior asylum application. Those files have now been consolidated into the current record of proceedings. Given his failure to document that he timely filed a written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

It is 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). On the Form G-325A, Record of Biographic Information, that was included with the prior asylum application cited above, the applicant specifically acknowledged that he had resided in his native Ecuador from May 1966 until 1987. 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.