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U.S. Citizenship  
and Immigration  
Services



FILE: [Redacted]

Office: National Benefits Center

Date: MAY 19 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.

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 that the applicant 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 she attempted to file a claim for class membership in the *LULAC* lawsuit, *infra*, but was turned away by the Immigration and Naturalization Service (INS). The applicant refers to her "witnesses" who have submitted affidavits in this proceeding attesting that the INS refused to accept the applicant's claim for class membership in *LULAC*.

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 one 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 section 1104(b) of the LIFE Act and 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.

In addition, an applicant for permanent resident status under section 1104 of the LIFE Act must establish that he or she entered the United States before January 1, 1982 and resided in this country in an unlawful status continuously through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b).

In her LIFE application (Form I-485) the applicant asserted that she was eligible for "LIFE legalization" on the basis of *LULAC*. To be a class member in the *LULAC* lawsuit an applicant must have:

- (1) resided continuously and illegally in the United States from before January 1, 1982 until the date between May 5, 1987 and May 4, 1988 (the original one-year filing period for legalization applications under section 245A of the Immigration and Nationality Act) when he or she visited an INS office or a Qualified Designated Entity (QDE) to apply for legalization, *and*
- (2) the applicant was turned away ("front-desked") by the INS or the QDE because he or she had, or the INS or QDE thought (s)he had, traveled outside the United States after January 1, 1982 and returned to the United States using a tourist visa, student visa, or some other INS-issued document.

When she filed her LIFE application the applicant submitted affidavits from two friends, prepared in April 2002, who assert that the applicant attempted to file an application with the INS in 1991. One of the affiants, [REDACTED] stated as follows: "I remember that on September 9, 1991 I drove [the applicant] to the INS office in Tampa for her to apply but her application was not accepted." The other affiant, [REDACTED] stated as follows: "I know for [a] fact that [the applicant] went to apply for *LULAC* on September 9, 1991 but her application was not accepted." Later, in response to the director's Notice of Intent to Deny, the applicant submitted another affidavit from [REDACTED], dated October 23, 2002, who stated that "I also know that [the applicant] went to the INS in 1990 to apply for *LULAC*; unfortunately her application was not accepted by the INS officer."

These affidavits are the only evidence in the record of the applicant's alleged attempt to file a claim for class membership in *LULAC*. The applicant refers to the affidavits in her appeal, but provides no additional details to augment the scanty information provided by the affiants. She does not even clear up the discrepancy among the affiants as to whether her attempted filing occurred in 1990 or 1991. In fact, the applicant relies exclusively on the affidavits and provides no narrative whatsoever as to what allegedly transpired at the Tampa INS office when she allegedly tried to file a *LULAC* class membership claim.

In the judgment of the AAO, the affidavits are insufficient evidence to establish that the applicant filed, or attempted to file, a claim for class membership in *LULAC* in 1990 or 1991. Considering the paucity of information in the affidavits, the absence of any additional details from the applicant, and the lack of any contemporaneous documentation from the early 1990s, it is concluded that the applicant has failed to establish that she filed, or attempted to file, a *LULAC* class membership claim in 1990 or 1991. Nor is there any assertion by the applicant, or evidence in the record, that she subsequently filed, or attempted to file, a class membership claim sometime prior to October 1, 2000, as required for her to be eligible for legalization under section 1104(b) of the LIFE Act. Citizenship and Immigration Services, successor to the INS, has no record of any such claim by the applicant.

Furthermore, there is no evidence in the record that the applicant entered the United States or resided in this country any time prior to January 15, 1985. As documented in photocopied pages from her passport, the applicant was issued a series of B-2 tourist visas between June 1, 1981 and November 23, 1984. But there is no stamp indicating an arrival in the United States until January 15, 1985. The applicant does not assert anywhere in the record that she was in the United States before 1985. Moreover, all three of the affidavits submitted by friends of the applicant (discussed above) state that "I know from my own personal knowledge [the applicant] has been living in the United States since January of 1985."

Thus, the documentation of record indicates that the applicant did *not* enter the United States before January 1, 1982 and did *not* reside in this country continuously in an unlawful status from then through May 4, 1988, as required to be eligible for "LIFE legalization" under section 1104(c)(2)(B)(i) of the LIFE Act.

Accordingly, the applicant has failed to establish (1) that she filed a claim for class membership in *LULAC* or one of the other legalization lawsuits before October 1, 2000, as required under section 1104(b) of the LIFE Act, and (2) that she satisfied the U.S. residency requirement in section 1104(c)(2)(B)(i) of the LIFE Act.

For the reasons discussed above, the applicant is ineligible for permanent resident status under section 1104 of the LIFE Act.

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