

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

MAY 27 2004

[Redacted]

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:

[Redacted]

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 applicant had not established she 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 counsel asserted that the applicant had previously "provided the documentation to prove her class membership." Counsel indicated on the appeal form, which was timely filed on May 23, 2003, that a brief and/or evidence would be submitted within 30 days. Up to the date of this decision, however, no such brief or evidence has been submitted.

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.

The record shows that the applicant filed a Form I-687, Application for Status as a Temporary Resident, on March 9, 1988, as the first step in seeking legalization under section 245A of the Immigration and Nationality Act (INA). Section 245A was added to the INA by the Immigration Reform and Control Act of 1986 (IRCA). The I-687 application was denied by the Regional Processing Center in Williston, Vermont, on February 12, 1990, for failure of the applicant to establish that her period of authorized stay in the United States expired before January 1, 1982 (she claimed to have been admitted on an A-3 nonimmigrant visa as a domestic servant of a Brazilian diplomat in April 1981), or that before January 1, 1982 she ceased to be recognized by the Department of State as entitled to such classification. Thus, the applicant failed to establish that she resided in the United States in an unlawful status continuously from before January 1, 1982 until the date her I-687 application was filed in 1988, as required in the Act and its implementing regulations. See 8 C.F.R. § 245a.2(b). The applicant filed an appeal, but it was dismissed by the Legalization Appeals Unit (now incorporated in the AAO) on December 23, 1996.

There is no provision in the LIFE Act which authorizes the reopening or reconsideration of applications previously denied under IRCA. Nor does the applicant's prior IRCA application constitute a claim for class membership in one of the subsequent legalization class-action lawsuits, *CSS*, *LULAC*, or *Zambrano*. An alien must have filed a claim for class membership in one of those three lawsuits before October 1, 2000 to be eligible for permanent resident status under section 1104(b) of the LIFE Act (which was enacted on December 21, 2000).

The applicant did not even assert in her LIFE application (Form I-485), much less submit any documentary evidence, that she filed a claim for class membership in one of the legalization class-action lawsuits. Since the applicant had a pre-existing A-file from her IRCA application, any written claim for class membership in *CSS*, *LULAC*, or *Zambrano* would almost certainly have been incorporated in the file. But there was no such class membership claim in the applicant's file, or even a reference to any of the legalization class-action lawsuits, at the time the instant LIFE application was filed on June 9, 2002. That was long after the statutory deadline of October 1, 2000 to file a claim for class membership in one of the legalization lawsuits.

Though counsel asserted on appeal that the applicant had submitted evidence of a claim for class membership (without specifying in which lawsuit) in response to the director's Notice of Intent to Deny, in fact none of the materials previously submitted in this proceeding had touched on the subject of a claim for class membership in one of the legalization lawsuits. Nor has any such evidence been submitted on appeal.

Thus, the record fails to establish that the applicant before October 1, 2000 filed a written claim for class membership in one of the legalization class-action lawsuits, *CSS*, *LULAC* or *Zambrano*, as required for her to be eligible for legalization under section 1104(b) the LIFE Act.

Accordingly, 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.