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U.S. Citizenship
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LA

JAN 27 2005

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 office that originally decided your case. 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.

Robert P. Wiemann

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, National Benefits 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, counsel asserts that the applicant derives her eligibility for permanent residence under the LIFE Act through her husband, who possesses the administrative file or A-file, [REDACTED] and currently has an appeal to his denied LIFE Act application pending. Counsel submits documentation in support of the applicant's claim of residence in the United States and indicates that a brief will be forthcoming within thirty days of the receipt of her appeal.

However, as of the date of this decision, neither the applicant nor counsel has submitted any additional material in support of the appeal. Therefore, the record shall be considered complete.

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.

Pursuant to 8 C.F.R. § 245a.10, the applicant can derive status through her spouse as she was married to him on May 24, 1980. Therefore, the requisite relationship to her husband did exist when he may have attempted to apply for legalization in the May 5, 1987 to May 4, 1988 application period.

The applicant neither claimed nor documented that she filed a claim for class membership in any of the aforementioned legalization class-action lawsuits with her initial LIFE Act application. Instead, the applicant indicated that she is applying as a derivative applicant based upon her husband having filed a claim for class membership in one of the requisite legalization class-action lawsuits. However, the applicant has failed to submit any documentation demonstrating that her husband filed a claim for class membership.

On appeal, counsel asserts that the applicant derives her eligibility for permanent residence under the LIFE Act through her husband, who possesses the administrative file or A-file, [REDACTED] and currently has an appeal to his denied LIFE Act application pending. A review of the A-file, [REDACTED] fails to disclose any evidence to establish that applicant's husband has ever filed a timely written application for class membership. Rather, the A-file, [REDACTED] reflects that the applicant's husband timely filed a Form I-700, Application for Temporary Resident Status as a Special Agricultural Worker (SAW) under Section 210 of the Immigration and Nationality Act (INA), on July 5, 1988. This special agricultural worker application was denied on July 23, 1991. The applicant appealed this denial of the special agricultural worker application and this appeal was dismissed by the AAO on August 6, 2001. An application for SAW status does not constitute an application for

class membership in any of the legalization class-action lawsuits. Furthermore, section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of a timely filed and previously denied application for temporary resident status as a special agricultural worker under section 210 of the INA.

The A-file, [REDACTED] also shows that the applicant's husband filed a Form I-485 LIFE Act application on November 14, 2002. This LIFE Act application was subsequently denied on April 10, 2003, because the applicant's husband failed to submit any evidence to demonstrate that he had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000. The applicant's husband appealed this denial of his LIFE Act application and this appeal was dismissed by the AAO on April 15, 2004. As such, the applicant cannot claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

The applicant has failed to provide evidence establishing that she or her husband filed a written claim for class membership in any of the aforementioned legalization class-action lawsuits prior to October 1, 2000. 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.