

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



L 2

FILE:



Office: NATIONAL BENEFITS CENTER

Date: JAN 31 2005

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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, reopened, and denied again by said Director. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director initially denied the application because it was 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.

The director, in his subsequent decision, concluded again that 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. The director also concluded that the applicant was inadmissible under section 212(a) of the Immigration and Naturalization Act (the Act) due to his criminal history in the United States.

On appeal from the initial decision, counsel disputed the director's decision and indicated that a brief and/or evidence would be submitted to the AAO within 30 days. However, no brief and/or evidence has been presented by either counsel or the applicant.

Furthermore, neither counsel nor the applicant has addressed the subsequent Notice of Decision nor provided any evidence to overcome the director's findings.

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 regulation at 8 C.F.R. § 245a.18(a) states in part that an alien who has been convicted of a felony or three or more misdemeanors committed in the United States is ineligible for adjustment to LPR status.

"Misdemeanor" means a crime committed in the United States, either (1) punishable by imprisonment for a term of one year or less, regardless of the term such alien actually served, if any, or (2) a crime treated as a misdemeanor under the term "felony" of this section. For purposes of this definition, any crime punishable by imprisonment for a maximum term of five days or less shall not be considered a misdemeanor.

In response to a Request for Additional Evidence issued on May 8, 2003, counsel provided the applicant's court dispositions, which revealed the following offenses in the State of California:

1. On January 6, 1992, the applicant was convicted in the Rio Hondo Municipal Court of inflicting corporal injury upon a spouse, a misdemeanor. Case no. [REDACTED]
2. On December 4, 1992, the applicant was convicted in the Santa Ana Municipal Court for driving under the influence, a misdemeanor. Case no. [REDACTED]
3. On August 12, 1994, the applicant was convicted in the Rio Hondo Municipal Court of driving under the influence, and driving without a license, both misdemeanors. Case no. [REDACTED]
4. On August 6, 1999, the applicant was convicted in the Citrus Municipal Court of driving under the influence of .08 percent or more alcohol, a misdemeanor. Case no. [REDACTED]

The director, in his Notice of Decision, concluded that the applicant was inadmissible under section 212(a) of the Act. The record, however, does not reflect any of the applicant's convictions resulted in multiple criminal convictions for which the aggregate sentences to confinement were five years or more, controlled substances, crime involving moral turpitude, controlled substance traffickers, security and related grounds or public charge. The applicant, however, is ineligible for the benefit being sought because of his five misdemeanor convictions. 8 C.F.R. § 245a.11(1) and 8 C.F.R. § 245a.18(a). Accordingly, the issue of whether the applicant applied for class membership in the *CSS-LULAC* lawsuit is moot.

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