

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



L2

FILE: [REDACTED] Office NATIONAL BENEFITS CENTER

Date:

MAR 28 2005

IN RE: Applicant: [REDACTED]

PETITION: 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. All documents have been returned to the office that originally decided your case. 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.

A handwritten signature in black ink, appearing to read "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. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director concluded that the applicant had not established that he or his parents had applied for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000. Accordingly, the application was denied.

On appeal, the applicant asserts that he is actually seeking to apply for eligibility under the provisions of section 245(i). The applicant indicates that his father had filed a Form I-130 relative petition filed on his behalf in 1992.

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. Alternatively, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership in one of the legalization lawsuits before October 1, 2000. 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.

The applicant failed to submit any documentation addressing this requirement when the application was filed. Furthermore, he has not provided any documentation regarding that point on rebuttal or on appeal. Nor are there any records within Citizenship and Immigration Services (CIS) which demonstrate that he had ever submitted an application for class membership in any of the aforementioned legalization class-action lawsuits prior to October 1, 2000.

The applicant, on appeal, asserts that he is actually seeking to apply for eligibility under the provisions of section 245(i), and that in 1992, his father had filed a Form I-130 relative petition filed on his behalf. Section 245(i), cited by the applicant on appeal, is a part of the Immigration and Nationality Act (INA) that was slightly modified by section 1502 of the LIFE Act. It does not relate to the Late Legalization provisions enacted in section 1104 of the LIFE Act. The I-130 petition, also mentioned in the appeal, provides an avenue for an unmarried child under the age of 21 of a legal permanent resident (like the applicant's father) to adjust status. The record indicates that the applicant has an approved I-130 petition which was filed by his father on his behalf. However, the priority date on the applicant's petition is April 10, 1992 and, as noted in the director's decision, is not current at this time.

In any case, the applicant specifies in Part 2 of his LIFE Application that he is applying for legalization under the LIFE Act. Under section 1104 of the LIFE Act, eligibility for adjustment of status hinges on having filed a claim for class membership in one of the requisite legalization lawsuits before October 1, 2000. According

to CIS records, the applicant's mother has also submitted an application for adjustment to permanent resident status under the LIFE Act. However, there is no indication that either the applicant's mother or his father has established having filed a written claim for class membership in any of the requisite legalization class-action lawsuits prior to October 1, 2000. Therefore, the applicant, in any case, cannot claim class membership as a derivative alien pursuant to 8 C.F.R. § 245a.10.

Thus, the record fails to establish that the applicant or his parents filed a written claim for class membership in one of the requisite legalization lawsuits, *CS.*, *LULAC*, or *Zambrano*, before October 1, 2000, as required for the applicant to be eligible for legalization under section 1104(b) of the LIFE Act. Accordingly, the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

In addition, a review of the applicant's G-325A Biographic Information Form discloses that he resided in his native Sinaloa, Mexico, from his birth on July 27, 1979 until January 1986. Pursuant to 8 C.F.R. § 245a.11(b), each applicant for adjustment to permanent resident status under the LIFE Act is required to demonstrate that he or she entered and commenced residing in the United States *prior to January 1, 1982*. Given the applicant's inability to meet this requirement, he 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.