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**U.S. Citizenship
and Immigration
Services**

L2

[Redacted]

FILE:

[Redacted]

Office: NATIONAL BENEFITS CENTER

Date: **NOV 15 2005**

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. 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, 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 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 found to be inadmissible under section 212(a) of the Immigration and Nationality Act (the Act) due to his criminal history.

On appeal, the applicant asserted he is eligible to adjust to permanent resident status because he has been residing in the United States since 1972. The applicant indicated that a brief and/or evidence would be submitted to the AAO within 30 days. More than a year later, no correspondence has been presented by either counsel or the applicant.

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 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 reflects that the applicant timely filed an application for temporary resident status under section 245A of the Act on May 1, 1988, and the application was denied on June 19, 1990. The record contains no evidence of an appeal having been filed. Section 1104 of the LIFE Act contains no provision allowing for the reopening and reconsideration of the matter, as the original application for temporary resident status under section 245A of the Act had been filed by the applicant in a timely manner. The legalization class-action lawsuits mentioned above relate to aliens who claim they did not file applications in the 1987-1988 period because they were improperly dissuaded by Citizenship and Immigration Services (CIS). In fact, CIS has no record of the applicant attempting to or filing a subsequent Form I-687 Application.

The director, in his Notice of Intent to Deny dated December 23, 2003, informed the applicant that his LIFE application contained no evidence that he filed a timely written claim to class membership. The applicant was given an opportunity to submit a rebuttal to the adverse evidence; however, the applicant has not provided any documentation regarding that point on rebuttal or on appeal. Given his failure to even claim, much less document, that he filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

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.

"Felony" means a crime committed in the United States punishable by imprisonment for a term of more than one year, regardless of the term such alien actually served, if any, except when the offense is defined by the state as a misdemeanor, and the sentence actually imposed is one year or less, regardless of the term such alien actually served.

The FBI record reflects that on July 9, 1983, the applicant was arrested by the Chicago Police Department and subsequently charged with bribery, a felony. On July 12, 1983, the applicant pled guilty to the charge and received two years felony probation.

An alien applying for adjustment of status under the provisions of section 1140 of the LIFE Act has the burden of proving by a preponderance of evidence that he is admissible to the United States under the provisions of section 212(a) of the INA, and is otherwise eligible for adjustment of status. 8 C.F.R. § 245a.11. The applicant has failed to meet this burden

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