

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



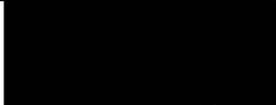
U.S. Citizenship
and Immigration
Services

PUBLIC COPY

L2



FILE:



Office: NATIONAL BENEFITS CENTER

Date: **MAR 04 2008**

MSC 03 249 64203

IN RE:

Applicant:



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 PETITIONER:



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, Chief
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. The director found that counsel's arguments in response to the notice of intent to deny, which rely on the family unity provisions under section 1504 of the LIFE Act, were not relevant to the instant application. Specifically, the director noted that an application under section 1504 of the LIFE Act should be filed on Form I-817, Application for Family Unity Benefits, and not Form I-485, Application to Register Permanent Residence of Adjust Status, which the applicant filed in this instance.

On appeal, counsel for the applicant again states that the applicable provision governing this application is section 1504 of the LIFE Act, and contends that the director erred by adjudicating the application under the wrong provisions. Counsel requested 60 days to submit further legal argument on this point.¹

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 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. That same regulation provides that, 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.

The record contains a copy of the applicant's marriage certificate, indicating that she married her husband on May 27, 2003. The requisite relationship to her spouse did not exist when her spouse applied or attempted to apply for legalization during the May 5, 1987 through May 4, 1988 period. Therefore, the applicant cannot derive status from her spouse under section 1104 of the LIFE Act.

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

¹ On January 29, 2008, the AAO sent a fax to counsel to verify whether a brief had in fact been filed in this matter. As of the date of this decision, no response has been received. Therefore, the record as it currently stands will be considered complete.