



U.S. Citizenship
and Immigration
Services

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FILE:

MSC 03 228 60168

Office: MIAMI (TAMPA)

Date: MAY 08 2008

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

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 District Director, Miami, Florida, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The district director concluded that the applicant had not established that she resided in the United States in a continuous unlawful status from before January 1, 1982, through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act, and was continuously physically present in the United States from November 6, 1986 through May 4, 1988, as required by section 1104(c)(2)(C) of the LIFE Act.

On appeal, counsel states that the applicant's Form I-485, Application to Register Permanent Resident or Adjust Status, incorrectly indicated that she was filing for "LIFE Legalization," and that she intended to file her application based on her marital status as a wife whose spouse had adjusted to permanent resident status under the LIFE Act.

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*). In the alternative, an applicant may demonstrate that his or her spouse or parent filed a written claim for class membership in a legalization class-action lawsuit before October 1, 2000. See 8 C.F.R. § 245a.10. Furthermore, an applicant for permanent resident status under section 1104 of the LIFE Act must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b).

The record reflects that on May 16, 2003, the applicant, through her prior counsel, filed a Form I-485 for adjustment of status under the LIFE Act and a Form I-817, Application for Family Unity Benefits. The Form I-817 was approved on September 29, 2003. The district office processed the applicant's Form I-485 application based on her derivative status as the spouse of an approved LULAC class member.

The applicant admitted on her Form I-817 application, and counsel confirmed in a February 1, 2006, letter, that she first entered the United States on October 14, 1988. Therefore, the applicant is statutorily ineligible for benefits under the LIFE Act, as she cannot establish continuous residence and continuous presence in the United States during the requisite period.

Therefore, based on the above, the applicant has failed to establish entry into the United States prior to January 1, 1982, and continuous unlawful residence through May 4, 1988, as required under Section 1104(c)(2)(B) of the LIFE Act. Given this, she is ineligible for permanent resident status under Section 1104 of the LIFE Act.

We note that, despite counsel's assertions, Citizenship and Immigration Services records do not indicate that a Form I-130, Petition for Alien Relative, has been filed on behalf of the applicant.

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