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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: Phoenix Date: OCT 25 2004

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: 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.

Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the District Director, Phoenix, Arizona, and is now before the Administrative Appeals Office 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.

On appeal, the applicant states that she and her husband have sought to become legal permanent residents in the United States for a long time. The applicant explains that the couple now has two children born in the United States who are great students and that until now, she has been granted work authorization. The applicant submits a copy of her work authorization card.

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 shows the applicant was married on October 5, 1991. Therefore the requisite relationship to her spouse did not exist when he may have 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.

The applicant did not submit any documents relating to class membership with her LIFE application. In response to a notice of intent to deny, she furnished a partial Form I-687, Application for Status as Temporary Resident under Section 245A of the Immigration and Nationality Act dated January 30, 1992. She also provided an undated Form for Determination of Class Membership in CSS vs Thornburgh explaining that because she had departed from the United States on November 30, 1990 and reentered on December 10, 1990, she was told that she did not qualify for legalization. She also submits a copy of an appointment letter indicating that she should appear at the "XLA" Legalization Office in Los Angeles on August 20, 1992 "to submit your application for amnesty as a CSS vs Thornburgh."

The Form I-687 was signed in ink. Thus, this is an original document, rather than a photocopy of what the applicant is claiming she had submitted in the past. If the applicant had actually submitted this document prior to October 1, 2000, it would be in the possession of Citizenship and Immigration Services (CIS), and the applicant would only have a photocopy to furnish now in this LIFE proceeding.

Additionally, the applicant failed to explain why, if she truly had the Form I-687 and the Form for Determination of Class Membership in CSS vs Thornburgh all along, she did not submit them with her LIFE application as instructed.

CIS, successor to the Immigration and Naturalization Service (INS), has no record of issuing the appointment letter to the applicant or receiving either the Form I-687 or the Form for Determination of Class Membership in CSS vs Thornburgh from the applicant until the instant LIFE application was filed on December 31, 2001. To be eligible for permanent resident status under section 1104(b) of the LIFE Act the applicant must show that after failing to file a legalization application during the May 5, 1987 and May 4, 1988 period, she filed a claim for class membership in one of the legalization lawsuits sometime before October 1, 2000. The applicant has not furnished any evidence, such as a postal receipt or an acknowledgement letter from the INS, that the above forms were filed with the INS on a date before October 1, 2000.

The applicant has furnished no further evidence on appeal that either of the two documents discussed above was filed with the INS before October 1, 2000. Thus, neither of them can be considered evidence of a timely, and therefore legally valid, claim for class membership. Accordingly, the applicant is ineligible for permanent resident status under section 1104(b) the LIFE Act.

Moreover, the regulations at 8 C.F.R. § 245a.11(b) require each applicant to demonstrate that he or she entered the United States prior to January 1, 1982. During her interview on September 25, 2000 concerning her asylum application that she filed on August 15, 2000, the applicant stated that she resided abroad until July 1, 1990 when she first entered the United States from Mexico. Given this person's inability to meet this requirement, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act for this additional reason.

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