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

PUBLIC COPY



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FILE:



Office: Missouri Service Center

Date:

JAN 26 2005

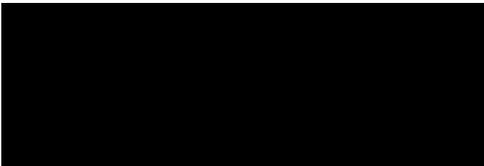
IN RE:

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. The file has 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, Missouri Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant had been convicted of the unlawful sale or purchase of cocaine on or near school property following his arrest on January 8, 1991.

On appeal, counsel argues that the applicant has never been convicted of "two aggravate [sic] felonies, inasmuch as the Appellant has never been convicted of any felonies, as proven by the arrest and Court Records attached hereto, (pertinent parts highlighted)." Counsel forwards documents from the Miami-Dade County Clerk of Courts and the Criminal Division of the Circuit Court of Dade County showing that the applicant was arrested on January 8, 1991 and charged with the crime cited by the director but that the case was not prosecuted (Nolle Pros) on September 9, 1992 and did not lead to a felony conviction. Counsel also forwards a second document from the Criminal Division of the Circuit Court of Dade County showing that when the applicant was arrested on July 8, 1992 under the alias of Luis Gonzalez and charged with trafficking in cocaine, that second case was not prosecuted (Nolle Pros) on July 29, 1992 and that his second arrest did not lead to a felony conviction.

On appeal, counsel has established that the applicant was not convicted of the unlawful sale or purchase of cocaine on or near school property following his arrest on January 8, 1991 or for trafficking in cocaine following his second arrest on July 8, 1992.

However, 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.

Along with his LIFE application, the applicant provided a photocopy of pages two, three and four of a Form I-687 Application for Status as a Temporary Resident under section 245A of the INA allegedly signed by the applicant on November 26, 1990.

Citizenship and Immigrant Services (CIS), successor to the Immigration and Naturalization Service (INS), has no record of receiving this document from the applicant until the instant LIFE application was filed on December 9 2002. To be eligible for permanent resident status under section 1104(b) of the LIFE Act the applicant must show that after failing to file for temporary residence (legalization) during the May 5, 1987 and May 4, 1988 period, he 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. As indicated above, CIS has no record of receiving this or any other documents from the applicant until the instant LIFE application was filed in December 2002. That was long after the statutory deadline to file a claim for class membership one of the legalization lawsuits. Therefore, he is ineligible for permanent resident status under section 1104 of the LIFE Act.

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