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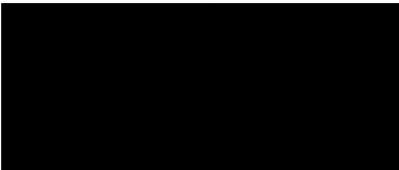
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FILE:  Office: NATIONAL BENEFITS CENTER Date: **JUL 08 2005**
MSC 02 214 62325

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. 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

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, reopened, and denied again by said Director. The matter is now before the Administrative Appeals Office 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 and, therefore, denied the application.

On appeal, from the initial Notice of Decision, counsel argued that the director's decision was erroneous as the applicant did in fact submit a timely response to the Notice of Intent to Deny. Counsel provided copies of the documentation previously submitted.

Neither counsel nor the applicant has addressed the subsequent Notice of Decision nor provided any evidence to overcome the director's findings.

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. 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.

The applicant indicated on his Life application that his spouse was applying for adjustment of status under the provisions of the LIFE Act. Counsel, in response to the Notice of Intent to Deny issued on September 10, 2002 asserted that the applicant was seeking derivative status under the provisions of the LIFE Act because of his spouse's eligibility. Citizenship and Immigration Services (CIS) records reveals that the applicant's spouse is a class member and her LIFE application has been approved.

The record contains a copy of the applicant's marriage certificate, which indicates that the marriage occurred on April 12, 2002. Because the requisite relationship to his spouse did not exist when the spouse may have attempted to apply for legalization during the May 5, 1987 through May 4, 1988 period, the applicant cannot derive status from his spouse under section 1104 of the LIFE Act.

Further, there is no evidence within CIS records establishing that the applicant filed a timely written claim for class membership on any of the legalization class action lawsuits as required in section 1104(b) of the LIFE Act.

Given his inability to meet the requirement, the applicant cannot qualify for permanent residence as a derivative benefit under section 1104 of the LIFE Act

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