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

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FILE:



Office: NATIONAL BENEFITS CENTER

Date:

IN RE:

Applicant:



MAR 28 2005

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 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

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Missouri Service Center. It was reopened and denied again by the Director, National Benefits Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

In both decisions, the directors 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. In addition, the National Benefits Center director determined that the applicant was inadmissible under section 212(a)(2)(A)(i)(II) of the Immigration and Naturalization Act (INA) as a result of her having previously been charged with possession for sale of a controlled substance.

On appeal of the initial decision, the applicant asserts that she is applying for adjustment to permanent resident status under the LIFE Act as a derivative applicant based on her husband's having filed a claim for class membership under C.S.S.

The applicant does not respond to the subsequent decision.

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: [REDACTED] v. [REDACTED] vacated sub nom. [REDACTED] v. [REDACTED], 509 U.S. 43 (1993) (CSS), *League of United Latin American Citizens v. INS*, vacated sub nom. [REDACTED] v. [REDACTED], 509 U.S. 43 (1993)(LULAC), or [REDACTED] *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 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. See 8 C.F.R. § 245a.10.

An eligible alien, as defined in 8 C.F.R. § 245a.10(d), may adjust status to Legal Permanent Resident (or LPR) status under LIFE Legalization if he or she is not inadmissible to the United States for permanent residence under any provisions of section 212(a) of the Immigration and Nationality Act (INA).

An alien is inadmissible if he has been convicted of, or admits having committed, or admits committing acts which constitute the essential elements of a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 USC 802). Section 212(a)(2)(A)(i)(II) of the INA.

On appeal, the applicant asserts that she was applying as a derivative applicant based her husband's having filed a timely claim for class membership. Along with her LIFE Application, the applicant provides a photocopy of a notice reflecting that he was to be interviewed at the Los Angeles district office of Immigration and Naturalization or INS (now, Citizenship and Immigration Services or CIS) on November 28, 1995 regarding the question of his eligibility for class membership in the CSS or LULAC class-action lawsuits. However, the photocopied notice provided by the applicant does not include a CIS Alien Registration Number (or A-

number) for the applicant's spouse. Nor is there any indication in CIS electronic or administrative records of the agency ever having generated the appointment notice *or* of the applicant's spouse ever having filed an application for class membership in any of the legalization class-action lawsuits.

Accordingly, given her failure to document that she *or* her spouse filed a timely written claim for class membership, the applicant is ineligible for permanent residence under section 1104 of the LIFE Act.

The application was also denied due to the applicant having been convicted of criminal offenses rendering her ineligible for adjustment to permanent resident status under the LIFE Act. The record reveals that, on October 23, 1995, the applicant was convicted by the Superior Court of California, County of San Bernardino, of possession for sale of a controlled substance [cocaine], a felony, in violation of section 11351 of the Health and Safety Code of the State of California.

An alien who has been convicted of a felony or three or more misdemeanors in the United States is inadmissible under 8 C.F.R. § 245a.11(d)(1) and, therefore, ineligible for permanent resident status under section 1104(c)(2)(D)(ii) of the LIFE Act. As the applicant is inadmissible, she is also ineligible for adjustment to permanent resident status for this reason as well.

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