

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

PUBLIC COPY

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



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

L2

FILE: [REDACTED]
MSC 03 247 62030

Office: CHICAGO

Date: **APR 06 2010**

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:

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.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the Director, Chicago, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to demonstrate that he filed a claim for written class membership in the *Catholic Social Services, Inc. (CSS)*, *League of United Latin American Citizens (LULUC)*, or *Zambrano* legalization class action lawsuits.

On appeal, counsel asserts that the director erred in denying the instant application. She contends that she was sent a denial without the opportunity to submit evidence. On appeal, counsel submits evidence that the applicant was eligible for adjustment of status based on class membership in *Proyecto San Pablo vs. INS*. The record reflects that a copy of the Record of Proceedings (ROP) under the Freedom of Information Act (FOIA) was requested. The record reflects that the request was completed on July 1, 2009.¹ The AAO has reviewed all of the evidence and has made a *de novo* decision based on the record and the AAO's assessment of the credibility, relevance and probative value of the evidence.²

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 one 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 Services v. Zambrano*, 509 U.S. 918 (1993) ("Zambrano"). See section 1104(b) of the LIFE Act and 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.

At issue in this proceeding is whether the applicant has established that he filed a timely written claim for class membership. Here, the applicant has failed to meet this burden. The evidence in the record does not establish that the applicant applied for class membership in one of the previously mentioned legalization class action lawsuits. The applicant has failed to provide any Service documents which prove his claim for class membership was filed. On appeal, the applicant provides copies of previously submitted evidence demonstrating his class membership in *Proyecto San Pablo*

¹ NRC2008047539.

² The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); see also, *Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. See, e.g. *Dor v. INS*, 891 F.2d 997, 1002 n.9 (2d Cir. 1989).

vs. *INS*, which is not one of the relevant class action lawsuits. In the absence of additional evidence, the applicant has failed to prove that he filed a timely written claim with the Attorney General for class membership.

Based upon the foregoing, the applicant failed to demonstrate that he filed a claim for written class membership in the *Catholic Social Services, Inc. (CSS)*, *League of United Latin American Citizens (LULUC)*, or *Zambrano* legalization class action lawsuits. The applicant is, therefore, 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.