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U.S. Citizenship
and Immigration
Services

[Redacted]

FILE:

[Redacted]

Office: Phoenix, Arizona

Date:

AUG 10 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. The file has been returned to the Phoenix District Office. 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.

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Robert P. Wiemann, Director
Administrative Appeals Office

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

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

The district director concluded that the applicant failed to establish that he satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act.

On appeal the applicant submitted a letter from the [REDACTED] of Phoenix, Arizona, which states that that applicant is enrolled in the institution and has taken 45 hours of English language study.

Under section 1104(c)(2)(E)(i) of the LIFE Act (“Basic Citizenship Skills”), an applicant for permanent resident status must demonstrate that he or she:

- (I) meets the requirements of section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or
- (II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

Under section 1104(c)(2)(E)(ii) of the LIFE Act, the Attorney General may waive all or part of the above requirements for aliens who are at least 65 years of age or developmentally disabled.

The applicant, who is neither 65 years old nor developmentally disabled, does not qualify for either of the exceptions in section 1104(c)(2)(E)(ii) of the LIFE Act. Nor does he satisfy the “basic citizenship skills” requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because he does not meet the requirements of section 312(a) of the Immigration and Nationality Act (INA). An applicant can demonstrate that he meets the requirements of section 312(a) by “[s]peaking and understanding English during the course of the interview for permanent resident status” and answering questions based on the subject matter of approved citizenship training materials, or “[b]y passing a standardized section 312 test . . . by the Legalization Assistance Board with the [REDACTED] (ETS) or the California State Department of Education with the Comprehensive Adult Student Assessment System (CASAS).” 8 C.F.R. § 245a.3(b)(4)(iii)(A)(1) and (2). As the district director indicated in his Notice of Intent to Deny, the applicant was interviewed twice on his LIFE application – on April 9, 2003 and again on October 22, 2003 – and both times was “unable to demonstrate the citizenship skills of writing English and demonstrating knowledge and understanding of the history and government of the United States.”

The remaining question, therefore, is whether the applicant satisfies the alternative “basic citizenship skills” requirement of section 1104(c)(2)(E)(i)(II) of the LIFE Act. In his Notice of Intent to Deny the district director indicated that the applicant had not presented any evidence that he “ha[d] pursued or w[as] then pursuing an appropriate course of study to achieve such citizenship skills.” The “citizenship skills” requirement of section 1104(c)(2)(E)(i)(II) is further defined by regulation in 8 C.F.R. § 245a.17(2) and (3). As specified therein, an applicant for LIFE Legalization must establish that:

He or she has a high school diploma or general education development diploma (GED) from a school in the United States. . . . 8 C.F.R. § 245a.17(2), or.

He or she has attended, or is attending, a state recognized, accredited learning institution in the United States, and that institution certifies such attendance. The course of study at such learning

institution must be for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) and the curriculum must include at least 40 hours of instruction in English and United States history and government. . . . 8 C.F.R. § 245a.17(3).

The applicant in this case does not have a high school diploma or a GED from a U.S. school, and therefore does not satisfy the regulatory requirement of 8 C.F.R. § 245a.17(2). On appeal the applicant submitted a letter dated December 5, 2003 from the [REDACTED] ESL Technology Program, in Phoenix, Arizona, stating that the applicant "is currently enrolled attending our institution." According to the letter, which was signed by the coordinator of the ESL program, [REDACTED] the applicant "has already completed 45 hours of English Learning as a Second Language and . . . is developing skills using computer in the Technology Center." The letter provides no confirmation, however, that the [REDACTED] is "a state recognized, accredited learning institution," as required by 8 C.F.R. § 245a.17(3). Moreover, there is no evidence in the letter that the applicant's course of study is for a one-year period, as required by the regulation, or that the course content includes any instruction on U.S. history and government. Thus, the applicant has failed to establish the qualifications of the Espiritu Community Development Corporation or that his course of study at that institution contains the requisite "citizenship skills" component specified in 8 C.F.R. § 245a.17(3).

For the reasons discussed above, the applicant does not satisfy the "basic citizenship skills" requirement of section 1104(c)(2)(E)(i)(II) of the LIFE Act because he has failed to demonstrate that he "is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States."

As previously discussed, the applicant failed to meet the "basic citizenship skills" requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because at his two interviews in 2003 he did not demonstrate a minimal understanding of English and a minimal knowledge of U.S. history and government.

Therefore, the applicant does not satisfy either alternative of the "basic citizenship skills" requirement set forth in section 1104(c)(2)(E)(i) of the LIFE Act. Accordingly, the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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