

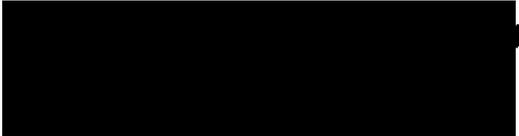
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



DEC 21 2004

FILE:

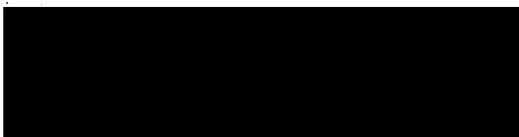
Office: Denver

Date:

IN RE: Applicant:

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:



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 Interim District Director, Denver, Colorado. 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 she satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act.

On appeal, counsel for the applicant asserts that the applicant’s low educational attainment during her years in El Salvador have been an impediment to her mastery of the English language.

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 she satisfy the “basic citizenship skills” requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because she does not meet the requirements of section 312(a) of the Immigration and Nationality Act (INA). An applicant can demonstrate that he or she 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 Educational Testing Service (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 the denial notice, the applicant was interviewed twice in connection with her LIFE application -- on May 8, 2003 and again on January 20, 2004. On both occasions, the applicant failed to demonstrate a minimal understanding of English or a knowledge of U.S. history and government.

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. This “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, counsel for the applicant submits a letter from [REDACTED] Spanish/English Teacher, Telluride Middle High School, Telluride, Colorado, who indicates that the applicant has enrolled in English As A Second Language classes, to be conducted twice a week over a six-month period beginning March 15, 2004. However, neither counsel nor the applicant have provided any further documentation indicating whether or not the applicant is actually attending or is satisfactorily pursuing such course of study *or* whether the course itself is recognized by the Attorney General, as required by regulation. In addition, while pertinent regulations require such course of study to be for a *one-year period*, [REDACTED] letter refers the applicant's English language classes as being only *6 months* in duration. Furthermore, as the applicant also failed on two separate occasions to demonstrate a knowledge and understanding of the history and government of the United States, as required, there is no evidence in the record to indicate whether or not she has also undertaken coursework which includes instruction in *U.S. history and government*.

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 at her two successive interviews in on May 8, 2003 and January 20, 2004, she failed to demonstrate a minimal understanding of English or 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.