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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services



22

FILE: [Redacted]

Office: Dallas

Date: DEC 22 2004

IN RE: Applicant: [Redacted]

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.

A handwritten signature in black ink, appearing to read "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 Interim District Director, Dallas, Texas. 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, counsel submits a separate brief accompanied by additional documentation in support of the applicant's claim.

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 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).

In her decision, the district director asserted that the applicant was interviewed twice on his LIFE application -- on February 21, 2003 and again on August 28, 2003 -- and on both occasions "failed to demonstrate knowledge of English and of the government and history of the United States." This assertion, however, is not entirely accurate. A review of the record indicates that, at the time of his second interview, the applicant actually succeeded in passing the reading/writing/English skills component of the test while once again failing to demonstrate a knowledge and understanding of the government and history of the United States.

The remaining question 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, counsel for the applicant submits a letter from [REDACTED] ESL (English as a Second Language) Adviser at Mountain View College in Dallas, Texas, who indicates the applicant has enrolled in citizenship classes at that educational institution. [REDACTED] also stated in his letter that the college is an "accredited" institution and that the course in which the applicant has enrolled consists of 50 classroom instructional hours.

[REDACTED] letter, however, is not accompanied by any additional, independent evidence to support his assertion that Mountain View College is, in fact, an *accredited* learning institution. Moreover, according to [REDACTED] the applicant has enrolled but has not yet actually *attended* this course. Nor can it be ascertained from the letter whether or not the citizenship class's course content includes actual instruction in United States history and government. Thus, the documentation provided by counsel on appeal fails to establish the qualifications of Mountain View College or satisfy the requirement as set forth in 8 C.F.R. § 245a.17(3) that the course of study provided by this institution contain the requisite "citizenship skills" component.

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 he was unable to demonstrate a minimal knowledge of United States 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.