



U.S. Citizenship
and Immigration
Services

12

[REDACTED]

FILE:

[REDACTED]

Office: Dallas, Texas

Date:

OCT 13 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:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the Dallas 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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 Dallas, Texas. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The district director determined that the applicant failed in two interviews to demonstrate his understanding of the fundamentals of English and knowledge of the history and government of the United States, as required to be eligible for permanent resident status under the LIFE Act. The district director indicated that the applicant was given 30 days to provide additional evidence, but had not provided any new evidence.

On appeal counsel asserts that the applicant is attending courses at two different institutions to acquire the basic understanding of English and of the history and government of the United States, in conformance with the LIFE Act's requirements. Counsel submitted letters from the two different institutions attesting that the applicant was attending classes.

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 Service v. Zambrano*, 509 U.S. 918 (1993) ("*Zambrano*"). See section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10.

The record indicates that the applicant filed a timely claim in 1990 for class membership in CSS.

An applicant for permanent resident status must also demonstrate, under section 1104(c)(2)(E)(i) of the LIFE Act ("Basic Citizenship Skills"), 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 is neither 65 years old nor developmentally disabled and thus does not qualify for either of those exceptions.

As further explained in the regulations, 8 C.F.R. § 245a.17(a) – Citizenship skills, an applicant can meet the requirements of section 312(a) by establishing that:

He or she has complied with the same requirements as those listed for naturalization applicants under §§ 312.1 and 312.2 of this chapter [8 C.F.R. § 245a.17(a)(1)]; or

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(a)(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. The applicant may submit certification on letterhead stationery from a state recognized, accredited learning institution either at the time of filing Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview . . . [8 C.F.R. § 245a.17(a)(3)].

The regulations also give applicants the opportunity of a second interview. Thus, 8 C.F.R. § 245a.17(b) provides that:

An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the interview shall be afforded a second opportunity after 6 months (or earlier, at the request of the applicant) to pass the tests or submit evidence as described in paragraphs (a)(2) and (a)(3) of this section. The second interview shall be conducted prior to the denial of the application for permanent residence and may be based solely on the failure to pass the basic citizenship skills requirements.

The record indicates that the applicant failed the reading and writing portions of the test administered at his first LIFE interview on November 14, 2002, and that he failed the history/civics and reading portions of the test administered at his second LIFE interview on June 23, 2003. On July 11, 2003 the district director issued a notice of intent to deny, to which counsel responded on August 8, 2003 with two letters from Tarrant County College in Fort Worth, Texas. The first letter, dated June 19, 2003, was signed by an instructor, Fabio Torres, who stated that “[the applicant] is enrolled in my English class Communications for Beginners at Tarrant County Community College; he has come to class faithfully twice a week Mondays and Wednesdays.” The second letter, dated July 22, 2003, was signed by the registrar, [REDACTED], who stated that “[t]his is to serve as a temporary verification that [the applicant] . . . has registered at Tarrant County College in the following non-credit course: [REDACTED] entitled “Comm/Grammar, Beginning,” from September 2 to December 9, 2003.

The letters fail to establish that the applicant’s classes constitute a recognized course of study to learn basic English and basic U.S. history and government, as required by section 1104(c)(2)(E)(i)(II) of the LIFE Act. The qualifications of the learning institution are normally certified on a Form I-804A, Certificate of Attorney General Recognition, which is lacking in this case. Moreover, the letters from Tarrant County College do not certify that either of the applicant’s course of study was for a period of one academic year, contained at least 40 hours of instruction, and included a U.S. history and government component, as required under 8 C.F.R. § 245a.17(a)(3). In addition, neither of the letters was produced “at the time of filing Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview,” as the regulation specifies.

In support of the appeal, filed on December 10, 2003, counsel submitted another letter from Tarrant County College and a letter from Gethsemane Presbyterian Church in Fort Worth, Texas, both dated December 3, 2003. The letter from Tarrant County College, signed by the registrar, John Spencer, stated that the applicant was enrolled in and attended the following “non-credit” courses: (1) RDCS 1000 10024, entitled “Communications Improvement, Beginning,” from June 3, 2003 to August 12, 2003, (2) BSKL 1091 10012, entitled “Communications, Beginning,” from June 11, 2003 to July 9, 2003, (3) BSKL 1091 10020, entitled “Communications, Beginning,” from July 14, 2003 to August 13, 2003, and (4) BSKL 1091 10007, entitled “Comm/Grammar, Beginning,” from September 2, 2003 to December 9, 2003. The letter from Gethsemane Presbyterian Church, signed by the Director, International Academy, Juan S. Frias, stated that the applicant “is enrolled in the English-Second-Language class of the International Academy. Classes started on September 2, 2003, and are held every Tuesday and Thursday of the week from 7:00 p.m. to 9:15 p.m. [The applicant] has attended faithfully twice a week . . .”

The letters from Tarrant County College and Gethsemane Presbyterian Church in December 2003, like the earlier letters previously discussed, do not establish that any of the applicant's classes qualifies as a recognized course of study to learn basic English and basic U.S. history and government, as required by section 1104(c)(2)(E)(i)(II) of the LIFE Act. There is no evidence that the subject church is "a state recognized, accredited learning institution," as required under 8 C.F.R. § 245a.17(a)(3). Moreover, the letters from Tarrant County College and Gethsemane Presbyterian Church do not certify that any of the applicant's course of study was for a period of one academic year, contained at least 40 hours of instruction, and included a U.S. history and government component, as required under 8 C.F.R. § 245a.17(a)(3). Like the previous letters from Tarrant County College, the new letters documenting the applicant's courses of study were not produced "at the time of filing Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview," as the regulation specifies.

Thus, the applicant does not satisfy the "basic citizenship skills" requirement of the LIFE Act, set forth in section 1104(c)(2)(E)(i)(II) of the Act and 8 C.F.R. § 245a.17(a)(3), because he failed to pass the "citizenship skills" tests at either of his interviews or demonstrate that he was satisfactorily pursuing a qualified course of study at a state recognized, accredited learning institution to achieve the requisite understanding of English and knowledge of the history and government of the United States.

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.