



U.S. Citizenship  
and Immigration  
Services

✓ 2



FILE:



Office: Dallas

Date:

SEP 16 2004

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:

Self-represented

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

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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**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, the applicant asserts the denial of his application was in error, and submits additional documentation in support of his 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 October 21, 2002 and again on June 13, 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." This assertion, however, is not accurate. A review of the record indicates that the applicant had actually passed the history/government test on the occasion of his initial interview on October 21, 2002, while having failed to demonstrate reading/writing English skills. Subsequently, on June 13, 2003, the district office re-administered both the citizenship and the English tests to the applicant. On that occasion, the applicant *failed* both tests.

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).

In response to the notice of intent to deny, the applicant submitted a separate statement in which he asserted that it was his understanding that he had successfully completed both the English/Literacy test and the U.S. history/government requirement at the time of his first interview on October 21, 2002. The applicant's account of his test performance, however, is not supported by the record, as noted above.

On appeal, the applicant submits a photocopy of a letter dated September 15, 2003 from [REDACTED] of Brookhaven College, Farmers Branch, Texas, who states that the applicant "is attending Beginning Naturalization and Citizenship classes with Brookhaven College since September 9, 2003. The course will be complete September 29, 2003." The letter from Ms. [REDACTED] is accompanied by photocopies of an official cash receipt from the Dallas County Community College District indicating the applicant had remitted the sum of \$65.00.

The letter from Brookhaven College provides no confirmation that the institution is "a state recognized, accredited learning institution," as required by 8 C.F.R. § 245a.17(3). Moreover, according to the letter, the duration of the course is less than a month, whereas by regulation, the course of study must be for a one-year period and must include at least 40 hours of instruction in English and U.S. history and government. The applicant has, therefore, failed to establish the qualifications of Brookhaven College or that his course of study at that institution contains the requisite "citizenship skills" component specified in 8 C.F.R. § 245a.17(3). Furthermore, while the applicant asserts on appeal that he intends to provide Citizenship and Immigration Services (CIS) with a completion certificate, there has been no additional evidence in the record to indicate that the applicant has satisfactorily completed his naturalization and citizenship classes at Brookhaven College.

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.