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

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JAN 21 2005

FILE:



Office: HOUSTON, TEXAS

Date:

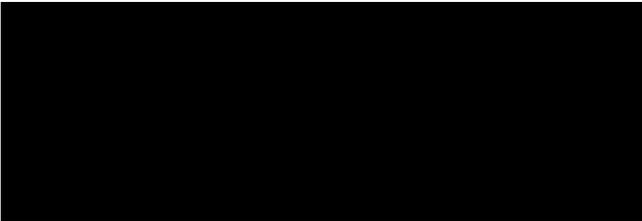
IN RE:

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 District Director, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director concluded the applicant had failed to demonstrate basic citizenship skills and denied the application.

On appeal, the applicant indicates that he was out of the United States at the time the second interview was scheduled and was not allowed to return.

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.

The applicant has not submitted any documentation that demonstrates that he is satisfactorily pursuing a course of study recognized by the Attorney General. Nor has he provided a high school diploma or a general education diploma from a school in the United States, which would suffice as evidence citizenship skills pursuant to 8 C.F.R. § 245.a17(a)(2).

The applicant appeared for his initial interview for adjustment under the LIFE Act on April 8, 2003, to be tested for knowledge of English and for citizenship skills. According to the director, at that interview the applicant was unable to understand sufficient English to be placed under oath and the interview was terminated. The director further indicated that the applicant was scheduled for a second LIFE interview on November 19, 2003, and that the applicant failed to appear or provide good cause as to why he failed to appear for that interview.

On appeal, the applicant states that, at the time his second interview was scheduled, he was out of the United States. The applicant states that he had a travel document, but that it was taken away from him at the border and that he was not allowed to enter the United States at that time. Therefore, he could not attend the interview.

A review of the record reveals that the applicant was granted advance parole for a period of one year on January 24, 2002. That authorization expired on January 24, 2003. The record contains no evidence that the

applicant received any subsequent advance paroles. Therefore, it must be concluded that the applicant's continued absence was unauthorized and that his failure to appear at his second scheduled interview was due to his own making.

During his initial interview, the applicant did not demonstrate minimal understanding of ordinary English. That determination has not been changed due to the applicant's failure to appear at a subsequent interview. Based on the aforementioned, it cannot be concluded that the applicant satisfies the "basic citizenship skills" requirement of 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.