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**U.S. Citizenship
and Immigration
Services**



L2

FILE: [REDACTED] Office: Houston

Date: JAN 24 2005

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:



PUBLIC COPY

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 District Director, Houston, 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 his notice of intent to deny, the district director indicated that the applicant was interviewed twice on her LIFE application -- on October 21, 2002 and, again, on July 23, 2003. A review of the record indicates that, at the time of her initial interview, the applicant failed to demonstrate reading/writing English skills and, in addition, failed to pass the history/government test. Subsequently, at the applicant's second interview on July 23, 2003, the Houston district office readministered both the citizenship and English tests to the applicant. On this occasion, the applicant succeeded in passing the history/government test, but once again failed to demonstrate a mastery of reading/writing/English skills.

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 separate statement, in which she asserts that the applicant has attended Houston Community College in an attempt to satisfy the alternative course of study requirement set forth in 8 C.F.R. §245a.17. Counsel also submits a certificate of achievement dated December 9, 2002 regarding the applicant's enrollment in the ESL-1 course (English As A Second Language) at Houston Community College Southwest. Accompanying the certificate is a photocopy of an itemized tuition statement from Houston Community College.

Counsel, on appeal, asserts that, as there isn't a single institution in Houston, Texas that would satisfy all the necessary educational requirements, applicants are obliged to attend several different courses in order to demonstrate compliance. Notwithstanding counsel's assertions, the regulations at 8 C.F.R. § 245a.17(a)(3) clearly specify that an applicant for adjustment to permanent status under the LIFE Act must submit proof of having attended an accredited institution of learning either at or subsequent to the time of filing the application Form I-485, but prior to or at the time of the applicant's interview. In the present case, the applicant's certification of completion was not proffered until after her application had already been denied. Moreover, according to the tuition statement provided by counsel, the ESL-1 course referred to on the applicant's photocopied certificate from Houston Community College consists of only *one month* in duration, lasting only from October 20, 2003 to November 20, 2003. This does not demonstrate compliance with the requirement at 8 C.F.R. §245a.17(3) that the course of study must be for a period of *one academic year* (or the equivalent thereof according to the standards of the learning institution).

The documentation provided by counsel, on appeal, fails to establish the accreditation qualifications of Houston Community College; nor does it satisfy the requirement as set forth in 8 C.F.R. § 245a.17(3) regarding the duration of the applicant's course of study. As such, the applicant has failed to demonstrate that she is satisfactorily pursuing a course of study (recognized by the Attorney General) devoted to achieving an understanding of English.

At her two successive adjustment interviews at the Houston District Office on October 21, 2002 and July 23, 2003, respectively, the applicant failed to demonstrate a minimal understanding of English. In addition, for the reasons discussed above, the applicant does not satisfy either alternative of the "basic citizenship skills" requirement as set forth in section 1104(c)(2)(E)(i)(II) 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.