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

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FILE:

MSC 02-217-60478

Office: DALLAS

Date: OCT 03 2006

IN RE: Applicant:



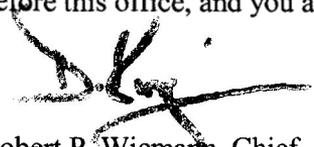
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), *amended by* Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has 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, Chief
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 (AAO) on appeal. The appeal will be dismissed.

The district director concluded that the applicant had not established that she possessed a minimal understanding of ordinary English and knowledge and understanding of the history and government of the United States.

On appeal, counsel asserts that the applicant has fulfilled the basic citizenship requirements under section 245A(b)(1)(D)(iii)(I) of the Immigration and Nationality Act. Counsel also asserts that the applicant timely responded to the director's Notice of Intent to Deny (NOID).

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b).

Under section 1104(c)(2)(E)(i) of the LIFE Act ("Basic Citizenship Skills"), an applicant for permanent resident status must also 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 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 who are developmentally disabled. *See also* 8 C.F.R. § 245a.17(c).

An applicant may establish that he or she has met the requirements of section 312(a) of the Immigration and Nationality Act (Act) by demonstrating an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language and by demonstrating a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States. *See* 8 C.F.R. § 245a.17(a)(1) and 8 C.F.R. §§ 312.1 and 312.2.

An applicant may also establish that he or she has met the requirements of section 312(a) of the Act by providing a high school diploma or general educational development diploma (GED) from a school in the United States. *See* 8 C.F.R. § 245a.17(a)(2).

Finally, an applicant may establish that he or she has met the requirements of section 312(a) of the Act by providing evidence that he or she has attended or is attending a state recognized, accredited learning institution in the United States, following a course of study which spans one academic year and that includes 40 hours of instruction in English and United States history and government. The applicant may provide

documentation of such on the letterhead stationary of said institution prior to or during the LIFE interview. *See* 8 C.F.R. § 245a.17(a)(3).

The applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the initial LIFE interview shall be afforded a second opportunity after 6 months: to pass the tests; to submit evidence of a high school diploma or GED from a school in the United States; or to submit evidence that he or she has attended or is attending a state-recognized, accredited learning institution in the United States, following a course of study which spans an academic year and that includes 40 hours of instruction in English and United States history and government. *See* 8 C.F.R. § 245a.17(b).

The record indicates that the applicant was interviewed on March 31, 2003. At that interview the applicant failed to demonstrate sufficient knowledge of ordinary English and of the knowledge and understanding of the government and history of the United States. On January 6, 2004, the applicant was afforded a second opportunity to demonstrate an understanding of ordinary English and knowledge and understanding of the government and history of the United States. The record shows that the applicant was unable to demonstrate that she possessed such knowledge.

On January 12, 2004 the applicant was sent a NOID and given thirty (30) days to respond with additional evidence. The applicant failed to file a timely response and on February 12, 2004 the applicant's petition was denied.

On appeal counsel for the applicant asserts that the applicant's response to the director's NOID was sent via Federal Express on February 13, 2004 and was thus timely. Counsel further asserts that the applicant is enrolled in an English studies program which satisfies the criteria established by 8 C.F.R. §§ 245a.17(a)(2) and (3). In support of this assertion counsel has submitted the following relevant documentation:

A copy of a February 13, 2004 letter from Gary Cooper of Catholic Charities of Dallas stating that the applicant attends a three hour class on Saturdays which covers U.S. history and government and includes practice speaking, reading, and writing in English.

The evidence submitted to support counsel's assertion that the applicant is enrolled in an educational program sufficient to satisfy 8 C.F.R. §§ 245a.17(a)(2) and (3) is not persuasive. The regulation states that the program in which an applicant is enrolled must be a state recognized, accredited learning institution in the United States. The institution which drafted the letter is not a state recognized accredited learning institution and therefore does not satisfy the criteria established by regulation.

The regulation also states that the curriculum of any program in which an applicant is enrolled must be for at least one academic year and include at least 40 hours of instruction in English and United States history and government. In this case the letter submitted does not state the duration of the classes that the applicant is attending, nor does it detail how the program is commensurate with an academic year of study including 40 hours of instruction in English and United States history and government. For this additional reason the evidence submitted is not persuasive.

The applicant has failed to demonstrate that he has met the basic citizenship skills requirement as described at 1104(c)(2)(E) of the LIFE Act. Thus, he is not eligible to adjust to permanent resident status under section 1104 of the LIFE Act.

ORDER: The appeal is dismissed. This decision constitutes a final notice of ineligibility.