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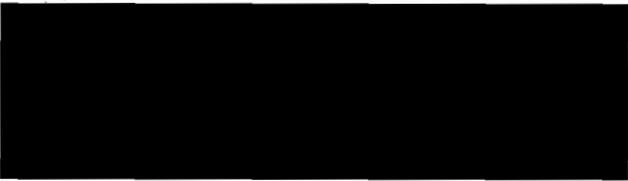
Date:

MSC 02 225 63460

OCT 05 2008

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. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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

The director denied the application because the applicant had failed to establish that she satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act.

On appeal, counsel states that the applicant “does, in fact, possess a basic understanding of English and of the history and government of the U.S.” Counsel submits additional documentation in support of the appeal.

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 was 46 years old at the times she took the basic citizenship skills test and provided no evidence to establish that she was developmentally disabled, does not qualify for either of the exceptions in section 1104(c)(2)(E)(ii) of the LIFE Act. Further the applicant does not satisfy the “basic citizenship skills” requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because she does not meet the requirements of section 312(a) of the *Immigration and Nationality Act* (the Act). An applicant can demonstrate that he or she meets the requirements of section 312(a) of the Act 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).

The regulation at 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 six months (or earlier at the request of the applicant) to pass the tests or submit evidence as described in paragraphs (a)(2) or (a)(3) of this section.

The record reflects that the applicant was interviewed twice in connection with her LIFE application, first on March 13, 2003 and again on March 30, 2004. On both occasions, the applicant failed the writing portion of the test and therefore failed to demonstrate a minimal understanding of English. Furthermore, the applicant has not provided evidence of having passed a standardized citizenship test, as permitted by 8 C.F.R. § 312.3(a)(1).

The applicant, however, could still meet the basic citizenship skills requirement under section 1104(c)(2)(E)(i)(II) of the LIFE Act, if she meets one of the criteria defined in 8 C.F.R. §§ 245a.17(a)(2) and (3). In part, an applicant must establish that he meets the following under 8 C.F.R. § 245a.17:

- (2) has a high school diploma or general educational development diploma (GED) from a school in the United States; or
- (3) 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 record does not reflect that the applicant has a high school diploma or a GED from a United States school, and therefore she does not satisfy the regulatory requirement of 8 C.F.R. § 245a.17(a)(2).

The applicant did not respond to the director's Notice of Intent to Deny issued on April 2, 2004. On appeal, the applicant submits a copy of an April 19, 2004 "registration summary" from the Dallas County Community College District. The summary indicates that the applicant enrolled in an English as a second language course with the organization with a beginning date of June 2, 2004. The applicant also submitted a copy of a May 15, 2004 "certificate of achievement" from the Dallas Independent School District, indicating that the applicant had completed a course in English as a second language.

The documentation from neither the Dallas County Community College District or the Dallas Independent School District provide confirmation that the course content for their English as a second language courses are for the period of one academic year and include at least 40 hours of instruction in English and United States history and government as required by 8 C.F.R. § 245a.17(a)(3). Furthermore, 8 C.F.R. § 245a.17(a)(3) requires that the applicant submit certification on letterhead stationery from a state recognized, accredited learning institution either at the time of filing the Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview. In the instant case, documentation from a state recognized, accredited learning institution should have been submitted to Citizenship and Immigration Services prior to or at the time of the applicant's second interview on March 30, 2004. As the documentation from the Dallas County Community College District and the Dallas Independent School District was presented subsequent to the applicant's interview, and there is no evidence that the course curriculum is for a period of one academic year and includes at least 40 hours of instruction in English and United States history and government, the applicant still would not qualify for benefits under the LIFE Act.

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 neither of her two interviews did she demonstrate a minimal understanding of the English language.

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.

We note that the applicant was apprehended on January 2, 2000 attempting to cross the border with false identification. The applicant claimed at that time to be a citizen of the United States. Therefore, the applicant is inadmissible into the United States pursuant to section 212(a)(6)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(6)(C). The record does not contain a waiver of inadmissibility.

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