

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

L2

PUBLIC COPY



FILE:



Office: CHICAGO

Date: SEP 06 2006

MSC 02 064 60997

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:

SELF-REPRESENTED

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 your case 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, 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, Chicago, Illinois, and is now before the Administrative Appeals Office (AAO) on appeal. This matter will be remanded for further action and consideration.

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

On appeal, the applicant states that she was not able to pass the citizenship skills test because she has cataracts on both eyes and is not able to read.

The regulation at 8 C.F.R. § 245a.20(a)(2) provides that when an adverse decision is proposed, Citizenship and Immigration Services shall notify the applicant of its intent to deny the application and the basis for the proposed denial. The applicant will be granted 30 days from the date of the notice in which to respond to the Notice of Intent to Deny (NOID).

The record, however, does not reflect that a NOID was issued prior to the director’s Notice of Decision. Accordingly, the case is remanded for the issuance of a NOID and for the entry of a new decision in accordance with the foregoing. If the new decision is adverse, it shall be certified to this office.

On remand, the director should address the applicability of a waiver for the applicant. Section 1104(c)(2)(E)(i) of the LIFE Act (“Basic Citizenship Skills”) provides:

- (i) In General – The alien must demonstrated that the alien either –
 - (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.
- (ii) Exception For Elderly Or Developmentally Disabled Individuals – The Attorney General may, in the discretion of the Attorney General, waive all or part of the requirements of clause (I) in the case of an alien who is 65 years of age or older or who is developmentally disabled.

The applicant was 68 years of age on May 21, 2002, the date of her first interview, and 70 years of age at the time of her second interview on August 30, 2004. On remand, the director should address whether a waiver of the requirements of section 1104(c)(2)(E)(i)(I) of the LIFE Act is appropriate in the present case.

Additionally, the NOID should address whether the applicant has submitted sufficient evidence to establish that she has continuously resided in the United States in an unlawful status since before January 1, 1982 through May 4, 1988 pursuant to Section 1104(2)(c)(B) of the LIFE Act; 8 C.F.R. § 245a.11(b). The

applicant's evidence to establish her presence and residency prior to 1982 through 1984 consists of affidavits containing vague or general information that has not been verified or corroborated.

ORDER: This matter is remanded for further action and consideration pursuant to the above.