



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted] MSC 01 355 61738

Office: NEW YORK

Date: JUL 06 2007

IN RE: Applicant: [Redacted]

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:

[Redacted]

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, New York, New York, and is now before the Administrative Appeals Office on appeal. The case will be remanded for further action and consideration.

On May 3, 2005, the director denied the application because the applicant had failed to establish that he satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act.

On appeal, the applicant states that he needs one more chance to pass the test. The applicant submitted no additional documentation in support of the appeal.

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 on March 8, 2004, the director notified the applicant that he had failed the first test of his citizenship skills, and that he was scheduled for another test in six months. The Notice of Intent to Deny (NOID) informed the applicant that "[f]ailure to appear for your final re-examination will result in the denial of your application based solely on 8 C.F.R. 245a.17(b)." The record further reflects that the applicant appeared for his scheduled interview on October 1, 2004 and that the applicant failed the second test of his citizenship skills.

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.

The record, however, does not reflect that the director issued a NOID after the second interview, advising the applicant of the reasons for her denial of his application prior to issuing a 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.

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