



U.S. Citizenship
and Immigration
Services

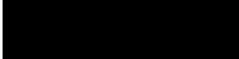
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FILE:



Office: Los Angeles

Date: MAR 14 2007

XPW-93-131-0087

IN RE:

Applicant:



APPLICATION: Application for Adjustment from Temporary to Permanent Resident Status pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT: Self-represented

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 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 ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary resident status to permanent resident status was denied by the District Director, Los Angeles. It is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The director denied the application because the applicant failed to report for scheduled interviews, and failed to demonstrate knowledge of United States history and government and a minimal understanding of ordinary English.

On appeal the applicant states that, due to medical, educational and financial constraints within his family, he was unable to follow through. He also states that he has a bachelor's degree, and that the degree allows him to qualify for permanent residence.

The regulation at 8 C.F.R. § 245a.3(e) states in pertinent part:

Each applicant shall be interviewed by an immigration officer, except that the adjudicative interview must be waived for a child under 14, or when it is impractical because of the health or advanced age of the applicant.

The required interview was originally scheduled for August 21, 1999. The applicant failed to appear, and the interview was rescheduled for September 23, 1999. The applicant again failed to appear. The interview was then scheduled for December 5, 2002, but the applicant again failed to report. The interview notices were all mailed to the correct address of the applicant, which he still maintained when he filed this appeal on May 18, 2006, but he never responded to any of notices.

On appeal the applicant states, without specificity, that he was unable to follow through due to medical constraints. He has not documented the medical problems, or explained why he did not write the director during the period in which the interviews were scheduled and ask for further rescheduling due to medical problems. It is concluded that there is no evidence to support a finding that the interview should be waived.

The applicant indicates that he has a bachelor's degree, and asserts that he, therefore, has fulfilled the requirements of demonstrating a minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States. He has not explained when and where he acquired his degree, and has not provided evidence of it.

Any alien who has been lawfully admitted for temporary resident status may apply for adjustment of status if the alien (A) can demonstrate that he or she meets the requirements of section 312 of the Immigration and Nationality Act (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States); or, (B) can demonstrate he or she 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. See 8 C.F.R. § 245a.3(b)(4).

An applicant may demonstrate that the section 312 requirements have been met by speaking and understanding English during the course of the permanent residence interview, or by passing a standardized section 312 test given in the English language by the Legalization Assistance Board with the Educational Testing Service or the California State Department of Education with the Comprehensive Adult Student Assessment System. See 8 C.F.R. § 245a.3(b)(4)(iii).

As the applicant did not report for a permanent residence interview, he did not meet the section 312 requirements on that basis. Nor is there evidence that he has passed a standardized section 312 test. Thus, he has not shown that he meets the requirements of section 312 of the Act.

Pursuant to 8 C.F.R. § 245a.1(s), "satisfactorily pursuing" means:

- (1) An applicant for permanent resident status has attended a recognized program for at least 40 hours of a minimum 60-hour course as appropriate for his or her ability level, and is demonstrating progress according to the performance standards of the English/citizenship course prescribed by the recognized program in which he or she is enrolled (as long as enrollment occurred on or after May 1, 1987, course standards include attainment of particular functional skills related to communicative ability, subject matter knowledge, and English language competency, and attainment of these skills is measured either by successful completion of learning objectives appropriate to the applicant's ability level, or attainment of a determined score on a test or tests, or both of these); or,
- (2) An applicant presents a high school diploma or general educational development diploma (GED) from a school in the United States. A GED gained in a language other than English is acceptable only if a GED English proficiency test has been passed. (The curriculum for both the high school diploma and the GED must have included at least 40 hours of instruction in English and U.S. history and government); or,
- (3) An applicant has attended for a period of one academic year (or the equivalent thereof according to the standards of the learning institution), a state recognized, accredited learning institution in the United States and that institution certifies such attendance (as long as the curriculum included at least 40 hours of instruction in English and U.S. history and government); or,
- (4) An applicant has attended courses conducted by employers, social, community, or private groups certified (retroactively, if necessary, as long as enrollment occurred on or after May 1, 1987, and the curriculum included at least 40 hours of instruction in English and U.S. history and government) by the district director or the Director of the Outreach Program under Sec. 245a.3(b)(5)(i)(D) of this chapter; or,
- (5) An applicant attests to having completed at least 40 hours of individual study in English and U.S. history and government and passes the proficiency test for legalization, called the IRCA Test for Permanent Residency, indicating that the applicant is able to read and understand minimal functional English within the context of the history and government of the United States. Such test may be given by INS, as well as, State Departments of Education (SDEs) (and their accredited educational agencies) and Qualified Designated Entities in good-standing (QDEs) upon agreement with and authorization by INS.

To satisfy the English language and basic citizenship skills requirements under the "satisfactorily pursuing" standard as defined at sec. 245a.1(s) of this chapter the applicant must submit evidence of such satisfactory pursuit in the form of a "Certificate of Satisfactory Pursuit" (Form I - 699) issued by the designated school or program official attesting to the applicant's satisfactory pursuit of the course of study as defined at sec. 245a.1(s) (1) and (4) of this chapter; or a high school diploma or general educational development diploma (GED) under sec. 245a.1(s)(2) of this chapter; or certification on letterhead stationery from a state recognized, accredited learning institution under sec. 245a.1(s)(3) of this chapter; or evidence of having passed the IRCA Test for Permanent Residency under sec. 245a.1(s)(5) of this chapter. 8 C.F.R. § 245a.3(b)(4)(iv). Evidence of

satisfactory pursuit may be submitted with the application, or, at the latest, at the time of the interview. *See* 8 C.F.R. § 245a.3(b)(4)(iv).

The applicant has not submitted Form I-699, Certificate of Satisfactory Pursuit, or a high school or GED diploma, or proof of attendance for one academic year at a state recognized learning institution, or evidence of having passed the IRCA Test for Permanent Residency. As such, the applicant has not demonstrated that he “satisfactorily pursued” a course of study recognized by the Attorney General. Therefore, the applicant has not shown that he meets the section 312 requirements **or** that he satisfactorily pursued an approved course.

The applicant did not report for the required interview, and has not shown that he meets the requirements concerning the English language and history and government of the United States. Therefore, he is ineligible for permanent residence in the legalization program.

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