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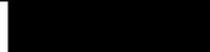
U.S. Citizenship
and Immigration
Services

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FILE:



Office: NEW YORK

Date:

JUN 03 2008

MSC 03 205 60239

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. If your appeal was dismissed or rejected, all documents have been returned to the National Benefits Center. 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. If your appeal was sustained or remanded for further action, you will be contacted.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The District Director, New York, New York, denied the application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act. On a subsequent appeal, the Administrative Appeals Office (AAO) remanded the record for issuance of a new Notice of Intent to Deny and for entry of a new decision. The director again denied the application and certified his decision to the AAO. The director's decision will be affirmed.

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 remand, the applicant stated that he does not have the mental capacity to retain information or to learn new things, including a new language. The applicant submitted no additional documentation on certification.

Under section 1104(c)(2)(E)(i) of the LIFE Act, regarding 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 [Secretary of Homeland Security]) 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 Secretary of Homeland Security may waive all or part of the above requirements for applicants who are at least 65 years of age or who are developmentally disabled. *See* 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. 8 C.F.R. § 245a.17(a)(1) and 8 C.F.R. §§ 312.1 – 312.3.

An applicant may also establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by providing a high school diploma or general educational development diploma (GED) from a school in the United States. 8 C.F.R. § 245a.17(a)(2). The high school or GED diploma may be submitted either at the time of filing the Form I-485 LIFE Act application, subsequent to filing the application but prior to the interview, or at the time of the interview. *Id.*

Finally, an applicant may also establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by establishing that:

He or she 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 applicant may submit certification on letterhead stationery from a state recognized, accredited learning institution

either at the time of filing Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview (the applicant's name and A-number must appear on any such evidence submitted).

8 C.F.R. § 245a.17(a)(3).

The record reflects that the applicant was interviewed three times in connection with his LIFE Act application, first on May 18, 2004, again on December 15, 2004, and finally on June 10, 2005. On all three occasions, the applicant failed to demonstrate a minimal understanding of English and minimal knowledge of United States history and government. 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 record contains a November 23, 2004, letter from the New York Language Center, certifying that the applicant was attending an English as a second language class at the organization. The letter indicated that the center was certified by the New York State Education Department. However, the letter does not provide any confirmation that the course content included any instruction on United States history and government, that the course of study was for a period of one academic year, and that the course of instruction was for at least 40 hours, as required by 8 C.F.R. § 245a.17(a)(3).

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 none of the three interviews did he 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.

On remand, the applicant submitted a letter stating that he lacks the mental capacity to learn and retain information. However, he submitted no documentation to corroborate his assessment or to establish that he is developmentally disabled as defined in 8 C.F.R. § 245a.18(c).

Accordingly, the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

The director also considered the applicant's eligibility for adjustment of status to that of a temporary resident pursuant to regulation at 8 C.F.R. § 245a.6, and determined that he was also ineligible for adjustment to temporary resident status under section 245A of the Act, as in effect before enactment of section 1104 of the LIFE Act (part 245a, Subpart A). We concur with the director that the evidence of record does not establish the applicant's eligibility for adjustment of status pursuant of section 245A of the Act.

ORDER: The director's February 1, 2008, decision is affirmed. The application is denied. This decision constitutes a final notice of ineligibility.