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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: NEW YORK Date: **MAY 29 2008**
MSC 02 274 60019

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:



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 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. This matter will be remanded for further action and consideration.

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.

The record reflects that the applicant was interviewed twice in connection with his LIFE application, on April 15, 2004, and again on June 18, 2004. On the both occasions, the applicant failed to demonstrate a minimal understanding of the English language.

The regulation at 8 C.F.R. § 245a.17(b) states, in pertinent part, that an applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the initial LIFE interview shall be afforded a second opportunity after six months (or earlier at the request of the applicant) to pass the required tests.

The director, however, did not wait the required six months before scheduling the applicant for a second interview, and the record does not contain any evidence that the applicant or counsel requesting an earlier interview.

Accordingly, the decision of the director is withdrawn. The case will be remanded for the purpose of scheduling the applicant for another interview. Should the applicant failed to appear or demonstrate a minimal understanding of the English language, a Notice of Intent to Deny shall be issued prior to the issuance of a new decision as required in 8 C.F.R. § 245a.20(a)(2). If the new decision is adverse, it may be certified to this office.

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