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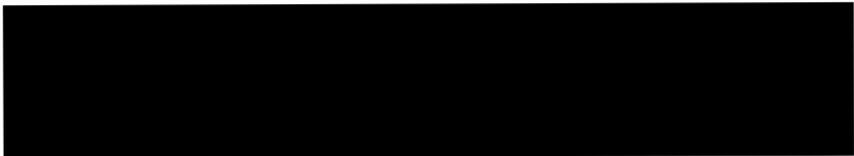
U.S. Department of Homeland Security
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U.S. Citizenship
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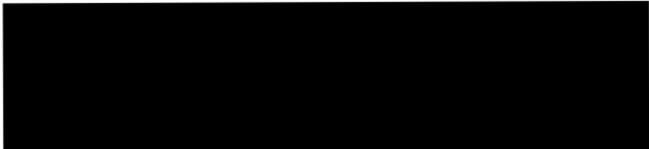
Date: **SEP 15 2008**

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:



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.

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, Dallas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

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, counsel asserts that the director erred in denying the instant application because the applicant is satisfactorily pursuing a course of study pursuant to the federal regulations. Counsel contends that the applicant timely provided the director with such evidence prior to a final decision being rendered in this case.

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).

The applicant, who is neither 65 years old nor developmentally disabled, does not qualify for either of the exceptions in section 1104(c)(2)(E)(ii) of the LIFE Act. Nor does he satisfy the “basic citizenship skills” requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because he does not meet the requirements of section 312(a) of the Immigration and Nationality Act (Act). 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).

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 or to submit the evidence described above. 8 C.F.R. § 245a.17(b).

Pursuant to 8 C.F.R. § 245a.17(b), the applicant was interviewed twice in connection with his LIFE Act application, on June 24, 2003, and again on June 9, 2005. On both occasions, the applicant failed to demonstrate a minimal understanding of ordinary English and knowledge of civics and history of the United States. The applicant does not dispute this fact on appeal. The applicant did not provide evidence of having passed a standardized citizenship test, as permitted by 8 C.F.R. § 245a.3(b)(4)(iii)(A)(2). The applicant does not have a high school diploma or a GED from a United States school, and therefore does not satisfy the regulatory requirement of 8 C.F.R. § 245a.17(a)(2).

In the Notice of Intent to Deny, dated June 9, 2005, the director determined that the applicant had failed to satisfy the basic citizenship skills requirement. The director provided the applicant with 30 days to submit evidence to overcome the basis for denial. The record reflects that the applicant submitted evidence indicating that he had enrolled in ESL and Civics classes on July 7, 2005. In the Notice of Decision, dated April 6, 2007, the director stated that the applicant was not enrolled prior to the second interview and, therefore, denied the instant application.

On appeal, counsel contends that the applicant was actively pursuing a recognized course of study to obtain basic citizenship skills prior to his initial interview on June 24, 2003, and therefore, has satisfied the requirements under the LIFE Act.

The record includes copies of two certificates from the Fort Worth Independent School District, Adult Education Division, dated May 15, 2001, and May 15, 2002. Both certificates state that the applicant progressed in the prescribed study of English as a Second Language. The record reflects that the certificates were submitted prior to the applicant's second interview. However, both certificates failed to indicate whether the school was an accredited learning institution and whether the course of study was for a period of one academic year. In addition, the certificates indicated that the curriculum focused solely on English as a Second Language and did not indicate any instruction in United States history and government as required under the regulations at 8 C.F.R. § 245a.17(a)(3). Thus, the applicant has not satisfied the basic citizenship skills requirement.

On appeal, counsel submitted the following evidence:

1. A declaration, dated July 7, 2005, from [REDACTED], ESL Advisor of Mountain View College, Dallas County Community College District. The declarant stated that the applicant is enrolled at Mountain View College, which is an accredited college. He further stated that the applicant enrolled in English classes, which are scheduled to begin on July 16, 2005, and consist of 50 classroom hours. The declarant also stated that the applicant enrolled in citizenship classes, which are scheduled to begin on July 23, 2005, and consist of 6 classroom hours.
2. A registration summary, dated July 7, 2005, from Dallas County Community College District. The registration summary indicates that the applicant was enrolled and had paid for classes in Citizenship Basics and ESL: Level 1 for Workforce for a total of 56 classroom hours.
3. A certificate, dated June 10, 2006, from Mountain View College, Dallas County Community Colleges. The certificate indicates that the applicant successfully completed the requirements of ESL: Level 1 for Workforce on June 10, 2006, for 5 continuing education units.

The record reflects that the above evidence was submitted on appeal on May 2, 2007. The applicant did not submit the above evidence prior to or at his second interview. This requirement is a mandatory time frame and clearly stated in the regulation at 8 C.F.R. § 245a.17(a)(3). Thus, the applicant has failed to satisfy the basic citizenship skills requirement.

It is also noted that although counsel contends that the applicant was actively pursuing a course of study, the record reflects that the applicant completed his studies at Fort Worth Independent School on May 15, 2002. There is no evidence that the applicant continued his studies after 2002 until he enrolled at Mountain View College in July 2005, over three years later.

Based on the above discussion, 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. Accordingly, the AAO affirms the director’s decision that the applicant is ineligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

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