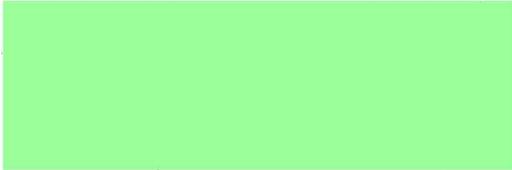


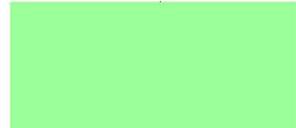
(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



Date: **JAN 15 2013** Office: HOUSTON

FILE:

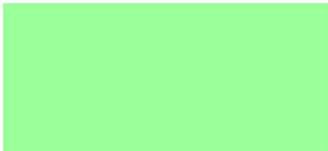


IN RE: Applicant:



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:



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 if your case was remanded for further action, you will be contacted.

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The application for adjustment from temporary resident status to permanent resident status was denied by the Director of the Houston Field Office. It is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director denied the application, finding the applicant twice failed to demonstrate a minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States.

On appeal, counsel for the applicant asserts that the applicant satisfies the English and civics requirement of the Immigration and Nationality Act and submits evidence that the applicant enrolled in an English as a Second Language (ESL) course.

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).

The applicant appeared for the permanent residence interview on July 22, 2010 and failed the history, government and English language test on that date. The applicant was given another opportunity to demonstrate these competencies on March 30, 2011 pursuant to 8 C.F.R. § 245a.3(b)(4)(iii)(B), and again failed the history, government and English language test. The director found the applicant ineligible to adjust status from temporary to permanent resident, and denied the Form I-698 application.

On appeal, counsel for the applicant asserts that the applicant has enrolled in an English as a Second Language course and therefore satisfies the English and civics requirement of the Act. The regulation at 8 C.F.R. 245a.3(b)(4)(i)(A)(4)(iv) provides that evidence of "satisfactory pursuit" may be submitted at the time of filing the Form I-698, subsequent to filing but prior to or at the time of the interview. Here, the applicant submitted evidence of enrollment in an ESL course in April 2011, after his last interview. He previously submitted a certificate of completion of an ESL course in 2007. The latter certificate might have met the English requirement, but not the civics requirement.

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The applicant 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.