



U.S. Citizenship
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Services

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FILE:

MSC 03 247 60336

Office: HOUSTON

Date: MAY 06 2009

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.

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The application for permanent resident status under the Legal Immigration Family Equity (LIFE) Act was denied by the director in Houston, Texas. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act.

On appeal the applicant asserts that he has taken courses to satisfy the basic citizenship skills requirement from Houston International University. The applicant submitted a photocopy of Form I-699 (certificate of satisfactory pursuit) from Houston International University and a letter signed by [REDACTED], program director at Houston International University, dated May 22, 2007, stating that the applicant was enrolled in “our ESL, Citizenship, History and Government program,” and has been attending the institution since February 2007.

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 aliens who are at least 65 years of age or who are developmentally disabled. *See also* 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. *See* 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. *See* 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 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. *See* 8 C.F.R. § 245a.17(b).

The applicant, a native of Mexico who claims to have resided in the United States since November 1981, filed his second Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act (Form I-485) on June 4, 2003.

The record reflects that the applicant had been interviewed on two separate occasions (February 14, 2002 and October 16, 2002) in connection with his previous Form I-485 he filed on August 3, 2001, and failed to demonstrate a basic understanding of ordinary English and a basic knowledge of U.S. history and government during the examination portion of the interview. On November 28, 2006, the applicant again failed to establish a basic understanding of ordinary English. The record also reflects that the applicant had submitted a certificate of completion from Houston Community College System for satisfactory completion of ESL 1 – English Residency 4.0 CEU'S dated August 16, 2002, requesting that he be exempt from the Basic Citizenship Skills requirement.

In a Notice of Intent to Deny (NOID) issued on January 29, 2007, the director notified the applicant that he is not eligible for the English and knowledge of history exemption based on the certificate of completion from Houston Community College System. The director further indicated that the applicant had failed to demonstrate his understanding of English and knowledge of history and government of the United States. The applicant was granted 30 days to submit a rebuttal and/or additional evidence.

The applicant responded, asserting that he is taking additional classes to enable him to satisfy the basic citizenship skills requirement and submitted a photocopy of the certificate of completion from Houston Community College previously in the record.

On May 17, 2007, the director issued a Notice of Denial denying the application on the ground that the applicant failed to pass the basic citizenship skills test, and that the information and document submitted in response to the NOID were insufficient to overcome the grounds for denial. The director concluded that the applicant is not eligible for the English and history exemption to the basic citizenship skills requirement, and therefore ineligible to adjust status under the LIFE Act.

On appeal the applicant asserts that he has made efforts to learn English, history and government of the United States and has been attending school since 1982 to meet this requirement. The applicant submitted a letter from [REDACTED], program director at Houston International University, dated May 27, 2007, stating that the applicant was enrolled in ESL, Citizenship, history and government program at the University since February 2007, and a photocopy of Form I-699 (Certificate of Satisfactory Pursuit) issued by Houston International University on June 2, 2007, indicating that the applicant has attended the institution for at least forty (40) hours course and has demonstrated progress in the English language/Citizenship course.

Contrary to the applicant's assertion, he has failed to establish that he has met the basic citizenship skills requirements. Although the applicant has submitted these documents and requested an exemption from the basic citizenship skills requirement, there is no evidence that the course(s) offered by the Houston Community College System, or Houston International University spanned one academic year and included 40 hours of instruction in English language, U.S. history and government. The AAO notes that the certificate of completion from the Houston Community College System indicates that it was issued to the applicant for satisfactory completion of "ESL 1 – English Residency 4.0 CEU'S." However, the applicant has not provided evidence that he has attended or is attending a course of study at any of these institutions for a period of one academic year (or the equivalent thereof according to the standards of the learning institution) as required under the provisions of 8 C.F.R. § 245a.17(a)(3). In addition, the documentation from Houston International University appears to be fraudulent. A search of the records indicated that Houston International University closed in 1990; therefore it is impossible that the applicant attended the institution in 2007 and obtained a certificate of satisfactory pursuit in 2007. Doubt cast on any aspect of the applicant's evidence will reflect on the reliability of other evidence submitted by the applicant. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Thus, the applicant has failed to establish that he qualified for exemption of the basic citizenship skills test.

The applicant is not 65 years old or older and there is no evidence in the record that he is developmentally disabled. Thus, the applicant does not qualify for either of the exceptions listed in section 1104(c)(2)(E)(ii) of the LIFE Act.

The applicant has failed to demonstrate that he has met the basic citizenship skills requirement as described at 1104(c)(2)(E) of the LIFE Act. Accordingly, he is not eligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

For the reasons discussed above, the appeal will be dismissed, and the application denied.

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