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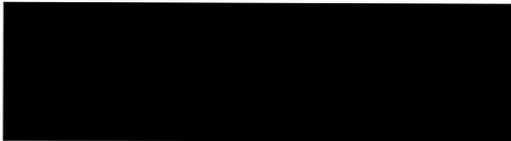
U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

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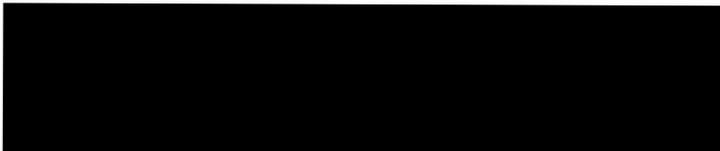
MSC 02 192 60673

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. All documents have been returned to the office that originally decided your case. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, 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.

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, Fresno, California, 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 demonstrate her understanding of U.S. history and English as required under section 1104(c)(2)(E) of the LIFE Act. The director noted that the applicant had appeared for interviews twice, on May 19, 2003, and, on March 31, 2006. However, at both interviews the applicant failed to demonstrate her understanding of U.S. history and English.

On appeal, counsel for the applicant asserts that the applicant has satisfied the citizenship skills requirements for LIFE Act applicants. With the appeal, counsel submits two Forms I-804A, Certificate(s) of Satisfactory Pursuit, dated June 22, 2007, and on May 2, 2008, issued by [REDACTED], of CT Learning, Inc., located at 2839 Mariposa Street, Fresno, CA 93721. Counsel also submits a Form 804A "Certificate of Attorney General Recognition," dated January 3, 1989, indicating that it had been issued to CT Learning Center, located at 1605 Fulton Street, Fresno, CA 93721. The Certificate of Attorney General Recognition

Under section 1104(c)(2)(E)(i) of the LIFE Act ("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 Attorney General) 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 Attorney General may waive all or part of the requirements for aliens who are at least 65 years of age or developmentally disabled.

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 she satisfy the "basic citizenship skills" requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because she does not meet the requirements of section 312(a) of the Immigration and Nationality Act (Act). An applicant can demonstrate that he or she meets the requirements of section 312(a) of the Act by "[s]peaking and understanding English during the course of the interview for permanent resident status" and answering questions based on the subject matter of approved citizenship training materials, or [b]y passing a standardized section 312 test . . . by the Legalization Assistance Board with the Educational Testing Service (ETS) or the California State Department of Education with the

Comprehensive Adult Student Assessment System (CASAS).” 8 C.F.R. §§ 245a.3(b)(4)(iii)(A)(1) and (2).

In the alternative, an applicant can satisfy the basic citizenship skills requirement by demonstrating compliance with section 1104(c)(2)(E)(i)(II) of the LIFE Act. The “citizenship skills” requirement of the section 1104(c)(2)(E)(i)(II) is defined by regulation in 8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3). As specified therein, an applicant for LIFE Legalization must establish that:

He or she has a high school diploma or general education development diploma (GED) from a school in the United States 8 C.F.R. § 245a.17(a)(2), or

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 8 C.F.R. § 245a.17(a)(3).

Both 8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3) specify that applicants must submit evidence to show compliance with the basic citizenship skills requirement “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 regulation at 8 C.F.R. § 245a.17(b) states that:

An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the interview, shall be afforded a second opportunity after 6 months (or earlier at the request of the applicant) to pass the tests or submit evidence as described in paragraphs (a)(2) and (a)(3) of this section [8 C.F.R. § 245a.17(a)(2) and 8 C.F.R. § 245a.17(a)(3)]. The second interview shall be conducted prior to the denial of the application for permanent residence and may be based solely on the failure to pass the basic citizenship skills requirements.

Pursuant to 8 C.F.R. § 245a.17(b), the applicant was interviewed on two occasions in connection with her LIFE Act application, on June 22, 2007, and again on May 2, 2008. However, at both interviews the applicant failed to demonstrate her understanding of U.S. history and English. The applicant does not dispute this on appeal. The applicant did not provide evidence of having passed a standardized citizenship test, as permitted by 8 C.F.R. § 312.3(a)(1). 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).

As noted above, on appeal, the counsel submitted two Certificate(s) of Satisfactory Pursuit, dated June 22, 2007, and on May 2, 2008, from CT Learning, Inc. indicating that satisfactory completion of at least 40 hours of a minimum 60-hour English language / citizenship course, and a Form 804A "Certificate of Attorney General Recognition," dated January 3, 1989, indicating that it had been issued to CT Learning Center. The Certificate of Attorney General Recognition also indicates that CT Learning is recognized as an institution approved by the Director of the INS Outreach Program or district director, and was issued pursuant to provisions under 8 C.F.R. § 245a.3(b)(5)(i)(C).

However, counsel has not provided any evidence that the Certificate of Attorney General Recognition, which was issued over 20 years ago, on January 3, 1989, is valid, as there is no evidence that CT Learning Center is in good standing as a qualified designated entity with the Service as of June 22, 2007, or May 2, 2008, the dates of issuance of the Certificate(s) of Satisfactory Pursuit. Also, there is no evidence that the CT Learning Center is operational, and if so, that it continues to satisfy the "basic citizenship skills" requirement pursuant to the provisions of 8 C.F.R. § 245a.17(a)(3). In addition, there is no basis in the record to establish the authenticity of the Forms I-804A, Certificate(s) of Satisfactory Pursuit provided which appear to be photocopies with signatures purporting to be that of [REDACTED] nor, is there evidence that [REDACTED] is authorized to issue these certificates.

Contrary to counsel's assertion, the applicant has not provided evidence that she has attended or is attending a course of study at an institution 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). The record also does not indicate evidence of enrollment in a course that satisfies the requirements under 8 C.F.R. § 245a.17(a).

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. Accordingly, the AAO will not disturb 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.