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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

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Date: JUN 11 2012 Office: HOUSTON FILE:

IN RE: Applicant:

APPLICATION: Application to Adjust Status 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 remanded for further action, you will be contacted.

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application to adjust to permanent resident status pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a, was denied by the Houston Field Office and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The director denied the application, finding that the applicant had failed to establish that he satisfied the "basic citizenship skills" required under 8 C.F.R. § 245a.3(b)(4). Specifically, the director determined that the applicant failed the history/government portion of the exam.

On appeal, the applicant did successfully establish that he satisfied the basic citizenship skill requirement.

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 (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).

Pursuant to 8 C.F.R. §§ 245a.3(b)(4)(iii)(B), the applicant was interviewed twice in connection with his application, on August 18, 2010 and March 30, 2011. On both occasions, the interviewing officer contemporaneously noted the applicant's responses to ten questions about United States history and government.

The first test results are marked five out of ten wrong and "failed." One question put to the applicant was "when is the last day you can send in federal income tax forms?" The applicant responded "April 14." The AAO finds that the applicant's error is de minimus. The correct answer is April 15. A reasonable person might surmise that taxpayers should mail their tax returns before the deadline. April 14 is only one day off.

Upon a *de novo* review of all of the evidence in the record, the AAO finds that the applicant has established that he satisfies the English language and basic citizenship skills requirements; therefore, the applicant is eligible for permanent residence in the legalization program. Consequently, the applicant has overcome the particular basis of denial cited by the director.

The appeal will be sustained.

ORDER: The appeal is sustained. This is a final decision.