

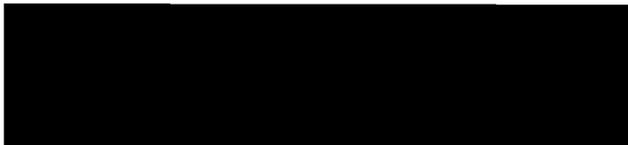
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



L1

DATE **MAY 25 2012**

OFFICE: HOUSTON, TX

FILE: 

IN RE: Applicant: 

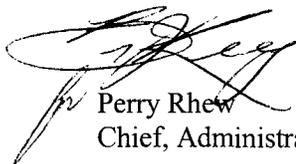
APPLICATION: Application to Adjust from Temporary to Permanent Resident Status pursuant to Section 245A of the Immigration and Nationality Act, as amended, 8 U.S.C. § 1255a

ON BEHALF OF APPLICANT:


INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the National Benefits Center. 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.

Thank you,



Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The application for temporary resident status under Section 245A of the Immigration and Nationality Act (Act) was terminated by the Field Office Director, Houston, Texas. The decision to terminate is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The director terminated the applicant's temporary resident status 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 states the applicant has satisfied the basic citizenship skills requirement as he is pursuing a 40-hour course in U.S. history and government. Counsel asserts, therefore, that the applicant's temporary resident status may not be terminated. Counsel does not submit additional evidence.

In the Notice of Intent to Terminate Temporary Resident Status (NOIT), dated June 1, 2011, the director notified the applicant that he was twice interviewed on June 28, 2010 and on February 8, 2011 to adjust status from temporary resident to permanent resident, however, the applicant twice failed to demonstrate an understanding of the English language and knowledge and understanding of the history and government of the United States, and had not submitted proof of attending an accredited learning institution to satisfy the requirement(s). The director granted the applicant thirty (30) days to submit additional evidence.

In the denial notice, the director noted that the applicant had satisfied the English skills requirement as he had provided in response to the NOIT, certificates of completion, dated May 31, 2011, from [REDACTED] reflecting his satisfactory completion of English as a Second Language, Level II -3.50 CEUs - 35 contact hours, and English as a Second Language, Level III - 3.50 CEUs – 35 contact hours; however, neither of the classes included instruction in U.S. history and government. In the Notice of Termination of Temporary Residence, dated June 20, 2011, the director denied the instant application based on the reasons stated in the NOIT, specifically, that the applicant had failed to demonstrate an understanding of the history and government of the United States.

The issue in this proceeding is whether the applicant has established that he satisfied the "basic citizenship skills" required under section 1104(c)(2)(E) of the LIFE Act.

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.

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 his LIFE Act application, on June 28, 2010 and again on February 8, 2011. On both occasions, the applicant failed to demonstrate a minimal knowledge of U.S. history and government. 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).

Counsel asserts that the applicant is pursuing a 40-hour course in U.S. history and government to satisfy the knowledge of U.S. history and government requirement. However, counsel does not submit additional evidence to establish his assertion, and the record does not include evidence that the applicant 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). Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant has not provided evidence that he 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) to satisfy the requirement knowledge of U.S. history and government requirement. 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 to terminate the applicant’s temporary resident status.

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