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**U.S. Citizenship
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JUN 21 2006

FILE: [REDACTED]
MSC 02 085 62020

Office: HOUSTON Date:

IN RE: Applicant: [REDACTED]

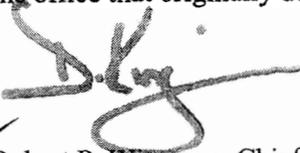
APPLICATION: Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by Life Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

[REDACTED]

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. Any further inquiry must be made to that office.


Robert P. Wiemann, Chief
Administrative Appeals Office

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

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

On appeal, counsel states that the applicant has enrolled and completed two courses in an attempt to satisfy the basic citizenship skills requirement, and therefore the denial of her application is premature.

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 above requirements for aliens who are at least 65 years of age or developmentally disabled.

The applicant, who was 45 years old at the time she took the basic citizenship skills test and provided no evidence to establish that she was developmentally disabled, does not qualify for either of the exceptions in section 1104(c)(2)(E)(ii) of the LIFE Act. Further the applicant does not 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 (the 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).

The regulation at 8 C.F.R. § 245a.17(b) provides 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) or (a)(3) of this section.

The record reflects that the applicant was interviewed twice in connection with her LIFE application, on April 17, 2003, and again on December 8, 2003. On the first occasion, the applicant was unable to understand sufficient English to be placed under oath and the interview was terminated. On the second occasion, the applicant failed to demonstrate a minimal understanding of English. Furthermore, the applicant has not provided evidence of having passed a standardized citizenship test, as permitted by 8 C.F.R. § 312.3(a)(1).

The applicant, however, could have met the basic citizenship skills requirement under section 1104(c)(2)(E)(i)(II) of the LIFE Act by showing, pursuant to 8 C.F.R. § 245a.17(a), that she:

- (2) has a high school diploma or general educational development diploma (GED) from a school in the United States; or
- (3) has attended, or is attending, a state recognized, accredited learning institution in the United States, and that institution certifies such attendance.

The record does not reflect that the applicant has 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).

At the time of her first interview, the applicant presented a letter dated April 9, 2003 from [REDACTED] program coordinator of Achievement and Development Division, a special programs department of the Fort Bend Independent School District in Sugar Land, Texas. [REDACTED] indicated that the applicant had been enrolled in a Family Literacy Even Start Program since September 2002 and was currently enrolled in an English as a Second Language Class at Goodman Elementary.

On April 17, 2003, the director issued a notice requesting evidence from the Fort Bend Independent School District establishing that the "Family Literacy Even Start Program" is a state recognized, accredited learning institution, that the course of study is equivalent to one academic year and the curriculum includes at least 40 hours of instruction in English and United States history and government. The applicant was granted 120 days in which to submit the requested documentation. The applicant, however, failed to respond.

In response to a Notice of Intent to Deny issued on February 4, 2004, counsel asserted that the applicant was currently enrolled in an institution in order to satisfy the basic citizenship skills requirement. Counsel stated that the applicant should be given more than six months in order to comply with the regulation at 8 C. F.R. § 245a.17(a)(3). Counsel provided a transcript from the Houston Community College indicating that the applicant was enrolled in a Citizenship Preparation course for 18 hours commencing March 1, 2004.

On appeal, counsel submits Certificates of Completion from the Houston Community College System, which indicated that the applicant had satisfactorily completed a Citizenship Preparation course on March 11, 2004 and an English as a Second Language course on May 6, 2004.

Counsel has provided contradicting documentation, which raises serious questions of credibility regarding one of the applicant's courses. Specifically, the Certification of Completion indicates that the applicant had satisfactorily completed a Citizenship Preparation course on "March 11, 2004;" however, the transcript indicated that this course consisted of classes on Mondays through Fridays from 5:00 p.m. to 7:00 p.m. from March 1, 2004 through "March 22, 2004." No explanation has been presented to resolve this contradiction.

The documentation from [REDACTED] does not provide any confirmation that it is "a state recognized, accredited learning institution," and has a course content that includes any instruction on United States history and government as required by 8 C.F.R. § 245a.17(a)(3). Assuming, arguendo, that Family Literacy Even Start Program is a state recognized, accredited learning institution, the applicant still would not qualify for the benefit being sought as no documentation from the entity was presented establishing that that the course of study is equivalent to one academic year and the curriculum includes at least 40 hours of instruction in English and United States history and government as required by 8 C.F.R. § 245a.17(a)(3).

The regulation at 8 C.F.R. § 245a.17(a)(3) requires that the applicant submit certification on letterhead stationery from a state recognized, accredited learning institution either at the time of filing the Form I-485, subsequent to filing the application but prior to the interview, or at the time of the interview. In the instant case, documentation from Houston Community College should have been submitted to Citizenship and Immigration Service prior to or at the time of the applicant's second interview on December 8, 2003. The applicant failed to meet this requirement as the documentation from the Houston Community College was presented *subsequent to* the applicant's interview.

As previously discussed, the applicant failed to meet the "basic citizenship skills" requirement of section 1104(c)(2)(E)(i)(I) of the LIFE Act because at his two interviews she did not demonstrate a minimal understanding of the English language.

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 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.