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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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OCT 01 2007

FILE:



MSC 02 017 61382

Office: DALLAS

Date:

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:

Self-represented

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

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, Dallas, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The case will be remanded for further action and consideration.

Although the record contains three Forms G-28, Notice of Entry of Appearance as Attorney or Representative, authorizing [REDACTED] of Servicios [REDACTED] to act on behalf of the applicant, the individuals and Servicios [REDACTED] are no longer recognized as authorized or accredited representatives pursuant to 8 C.F.R. § 292.1(a).¹

The director denied the application 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, the applicant submits documentation reaffirming his enrollment at Navarro College in 1991.

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.

The applicant can meet 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 he:

- (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.

Along with his Form I-485 application, the applicant provided a photocopied Form I-699, Certificate of Satisfactory Pursuit, dated January 24, 1991 from [REDACTED] director of adult education at [REDACTED] College in Corsicana, Texas. [REDACTED] indicated that the applicant was enrolled in an English/citizenship course of study recognized by the Attorney General and that the applicant had attended 87 hours in the course.

On March 5, 2004, the director issued a Notice of Intent to Deny, which advised the applicant that on February 26, 2004, the certificate from [REDACTED] Jr. was faxed to Navarro College to verify its authenticity.² The director noted, "[o]n February 27, 2004, the school representative confirmed that the document was fraudulent and that no one with your name and birth date has been enrolled in their course(s)

¹ See <http://www.usdoj.gov/eoir/statspub/raroster.htm> for the list of accredited organizations and representatives.

² The document was faxed to the attention of [REDACTED]

between 1985 and this date." The applicant was advised that he did not satisfy the regulatory requirement of 8 C.F.R. § 245a.17(a)(3). The applicant, in response, submitted a photocopy of the Form I-699 that was previously provided.

On January 14, 2005, the director, in denying the application, noted that even though the applicant had provided documentation from [REDACTED] had no record of his attendance in 1991.

On appeal, the applicant submits the original Form I-699 from [REDACTED] Jr. along with a letter dated January 31, 2005 from [REDACTED] director of adult education at [REDACTED] [REDACTED] asserted, in pertinent part:

In reference to your letter of January 14, 2005, inquiring about the enrollment status of [the applicant], I am sending this letter as official documentation of his attendance in our classroom. [The applicant] has a letter dated January 24, 1991 from [REDACTED] who was the Director of Adult Education at Navarro College during the year of 1991. We will honor this letter at this time. In addition, [the applicant] has acquired 26 hours of study during the 2003-2004 semesters.

We will be glad to discuss any other information pertinent to this situation.

In reviewing the record, the actual adverse evidence, which served as the basis for denial in this case, confirmation that the Form I-699 was fraudulent, was not entered into the record of proceedings. Whatever resulted from the facsimile whether it consisted of a letter or a specific memorandum detailing the salient points of a conversation should be incorporated into the record. The record contains only an unsigned post-it note, which states, "no records available to verify attendance and completion." This post-it note was attached to the certificate submitted by the applicant in response to the Notice of Intent to Deny. As the post-it note contains no signature and was attached to the certificate submitted by the applicant, it cannot be inferred that it came from [REDACTED]. The record contains no evidence suggesting the director contacted Ms. [REDACTED] to clarify her letter of January 31, 2005. Therefore, the adverse evidence is insufficient to support the director's finding in this case.

Based on the [REDACTED] letter of January 31, 2005 and the Form I-699 from [REDACTED], the applicant has satisfy the basic citizenship skills requirement of 8 C.F.R. § 245a.17(a)(3). Accordingly, the director's decision is withdrawn with regard to the denial of the application based on basic citizenship skills.

An applicant for permanent resident status must establish entry into the United States before January 1, 1982 and continuous residence in the United States in an unlawful status since such date and through May 4, 1988. 8 C.F.R. § 245a.11(b).

The record, as it stands, does not contain sufficient evidence to establish the applicant's entry into the United States prior to January 1, 1982 and his continuous residence since such date through May 4, 1988. The record reflects that the applicant has presented only one document in an attempt to establish continuous presence and physical presence in the United States during the requisite. This document is inconsistent with what the applicant claimed on his Form I-687 application for residence. Likewise, a determination should be made regarding the applicant's apprehension on or about March 1, 1992 in Laredo, Texas for alien smuggling.

Accordingly, this case is remanded for the director to continue the adjudication of the application for permanent resident status in determining the applicant's eligibility for adjustment of status to 8 C.F.R. §§ 245a.11(b) and (c). The director shall notify the applicant of Citizenship and Immigration Services Notice of Intent to Deny and the basis for the proposed denial as required in 8 C.F.R. § 245a.20(a)(2).

ORDER: The director's decision denying the LIFE Act is withdrawn. The application is remanded to the director for further action in accordance with the foregoing and entry of a new decision that, if adverse to the applicant, may be certified to the AAO for review.