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U.S. Citizenship
and Immigration
Services

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FILE:

MSC 02 246 66146

Office: LOS ANGELES

Date:

NOV 04 2008

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. 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.

for
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 director in Los Angeles. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The director denied the application because the applicant failed to establish that he (1) satisfied the “basic citizenship skills” required under section 1104(c)(2)(E) of the LIFE Act, and (2) resided continuously in the United States from before January 1, 1982 through May 4, 1988.

On appeal the applicant asserts that he has satisfied his basic citizenship skills requirement because he submitted proof that he completed a course in English as a Second Language (ESL), as was requested by the director.

Under section 1104(c)(2)(E)(i) of the LIFE Act, regarding 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 [Secretary of Homeland Security]) 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 Secretary of Homeland Security may waive all or part of the above requirements for aliens who are at least 65 years of age or who are developmentally disabled. *See also* 8 C.F.R. § 245a.17(c).

An applicant may establish that he or she has met the requirements of section 312(a) of the Immigration and Nationality Act (Act) by demonstrating an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language, and by demonstrating a knowledge and understanding of the fundamentals of the history and of the principles and form of government of the United States. *See* 8 C.F.R. § 245a.17(a)(1) and 8 C.F.R. §§ 312.1 – 312.3.

An applicant may also establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by providing a high school diploma or general educational development diploma (GED) from a school in the United States. *See* 8 C.F.R. § 245a.17(a)(2). The high school or GED diploma may be submitted either at the time of filing the Form I-485 LIFE Act application, subsequent to filing the application but prior to the interview, or at the time of the interview. *Id.*

Finally, an applicant may establish that he or she has met the requirements of section 1104(c)(2)(E)(i) of the LIFE Act by establishing that:

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. The applicant may submit certification on letterhead stationery from a state recognized, accredited learning institution 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 applicant's name and A-number must appear on any such evidence submitted).

8 C.F.R. § 245a.17(a)(3).

An applicant who fails to pass the English literacy and/or the United States history and government tests at the time of the initial LIFE interview shall be afforded a second opportunity after six months (or earlier at the request of the applicant) to pass the required tests or to submit the evidence described above. *See* 8 C.F.R. § 245a.17(b).

The applicant, a native of Mexico who claims to have resided in the United States since November 1981, filed his Form I-485, Application to Register Permanent Resident or Adjust Status, under section 1104 of the LIFE Act, on June 3, 2002.

On May 26, 2006, the applicant was interviewed for LIFE legalization. He failed to demonstrate a basic understanding of ordinary English and a basic knowledge of U.S. history and government during the examination portion of the interview.

On the same date the director issued a Form I-72 requesting, in lieu of demonstrating basic English and citizenship skills, that the applicant furnish proof of enrollment in or completion of attendance at a State recognized, accredited learning institution in the United States for one academic year or the equivalent thereof. The applicant was informed that the enrollment/completion proof must indicate at least 40 hours of instruction in English and U.S. history and government. The director warned the applicant that if the facility he attended did not meet the three requirements (instruction in English language, U.S. history and government), his application may be denied. The applicant was also advised to bring an interpreter and proof of certification at his second interview. Alternatively, the applicant was advised that he could take the basic citizenship skills examination again, without an interpreter, at his second interview.

On May 23, 2007, the applicant appeared for his second interview, but did not come with an interpreter and failed to submit documentation of enrollment or completion of attendance at a State recognized, accredited learning institution in the United States for one academic year, or the

equivalent thereof, that includes at least 40 hours of instruction in English, U.S. history and government, as requested on the Form I-72. Evidently the applicant did not exercise the option of taking the basic citizenship skills examination a second time.

The director denied the application on July 6, 2007, citing the applicant's failure to demonstrate knowledge of the basic citizenship skills required for adjustment under the LIFE Act. The director also denied the application on the ground that the applicant failed to establish that he continuously resided in the United States from before January 1, 1982 through May 4, 1988.

On appeal the applicant asserts that he submitted the evidence requested by the director on the Form I-72 at his second interview. The applicant submits a letter from [REDACTED] secretary, ESL Program at ABC Unified School District in Cerritos, California, dated July 27, 2007, indicating that the applicant was enrolled in the English as a Second Language program from July 5, to July 20, 2006, and that he completed a total of 48 hours of attendance.

The applicant has not satisfied the basic citizenship skills requirement for LIFE legalization as set forth in the regulations. He did not pass an examination of basic English language ability and knowledge of U.S. history and government, in accordance with 8 C.F.R. § 245a.17(a)(1). He did not provide a high school diploma or GED from a school in the United States, in accordance with 8 C.F.R. § 245a.17(a)(2). Nor did the applicant show at the time of his second interview on May 23, 2007, that he had attended, or was attending, a state recognized, accredited learning institution in the United States, following a course of study which spans one academic year and that includes 40 hours of instruction in English and United States history and government, in accordance with 8 C.F.R. § 245a.17(a)(3). The letter from [REDACTED], secretary, ESL Program at ABC Unified School District in Cerritos, California, does not comply with the requirements at 8 C.F.R. § 245a.17(a)(3) because it does not indicate that the applicant's course of study included instruction in U.S. history and government, the applicant's A-number does not appear thereon, and the letter was not submitted by the time of the applicant's second interview on May 23, 2007, as required. The letter was dated July 27, 2007, and submitted to the district office on July 30, 2007, more than two months after the applicant's second interview.

The applicant is not 65 years old or older and there is no evidence in the record that he is developmentally disabled. Thus, the applicant does not qualify for either of the exceptions listed in the section 1104(c)(2)(E)(ii) of the LIFE Act.

The applicant has failed to demonstrate that he has met the basic citizenship skills requirement as described at 1104(c)(2)(E) of the LIFE Act. Accordingly, he is not eligible for adjustment to permanent resident status under section 1104 of the LIFE Act.

Furthermore, to be eligible for adjustment to permanent resident status under the LIFE Act applicants must also establish their continuous unlawful residence in the United States from before January 1, 1982 through May 4, 1988, as well as their continuous physical presence in the

United States from November 6, 1986 through May 4, 1988. *See* section 1104(c)(2)(B)(i) and (C)(i) of the LIFE Act, 8 U.S.C. § 245A(a)(2)(A) and (3)(A).

The applicant did not submit any documentation in support of his claim of continuous residence in the country from before January 1, 1982 through May 4, 1988. On this ground as well, therefore, the applicant has failed to establish his eligibility for legalization under the LIFE Act.

For the reasons discussed above, the appeal will be dismissed, and the application denied.

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