

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

L2



FILE: [REDACTED]
MSC 02 200 63104

Office: NEW YORK

Date: JAN 12 2009

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:



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.

John F. Grissom, Acting Chief
Administrative Appeals Office

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

The director denied the application because the applicant had failed to establish that he satisfied the "basic citizenship skills" requirement under section 1104(c)(2)(E) of the LIFE Act. The applicant was provided two opportunities to pass the English literacy and/or the United States history and government tests, but failed to pass the tests or submit relevant evidence as described in the regulations at 8 C.F.R. § 245a.17. The director noted that the applicant was interviewed twice, on July 28, 2004, and again on May 13, 2004, but on both occasions he failed to pass the tests.

On appeal, counsel for the applicant states that the second test was scheduled within six months of the first test. Counsel does not state any other basis for the appeal. Counsel does not allege any legal or factual error in the director's decision and did not submit additional documents. Contrary to counsel's assertion, as noted above, the record reflects that the applicant's second interview was conducted over 9 months after the first interview. Counsel also states that a request to reschedule a second interview was submitted on January 21, 2005, and states that he is submitting a copy of the request and a doctor's note. Counsel, however, does not provide any documentation in support of his assertion. Furthermore, the record of proceedings does not reflect that the applicant submitted a request to reschedule the second interview. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. 8 C.F.R. § 103.3(a)(3)(iv). A review of the decision reveals the director accurately set forth a legitimate basis for denial of the application. On appeal, the applicant has not presented additional evidence and has not addressed the basis for denial. The appeal must therefore be summarily dismissed.

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