



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF M-I-R-

DATE: DEC. 4, 2015

APPEAL OF HOUSTON FIELD OFFICE DECISION

APPLICATION: FORM I-698, APPLICATION TO ADJUST STATUS FROM TEMPORARY TO PERMANENT RESIDENT (UNDER SECTION 245A OF THE INA)

The Applicant, a native and citizen of Mexico, seeks to adjust status from temporary resident to lawful permanent resident. *See* Immigration and Nationality Act (the Act) § 245A, 8 U.S.C. § 1255a. The Director, Houston Field Office, denied the application. The matter is now before us on appeal. The appeal will be summarily dismissed.

The Director denied the Form I-698, Application To Adjust Status From Temporary To Permanent Resident, finding that the Applicant did not demonstrate the basic literacy and citizenship skills as required for adjustment of status under section 245A of the Act.

On appeal, the Applicant asserts that she is 81 years old and that she has been living in the United States since 1972. The Applicant requests guidance regarding obtaining legal status in the United States.

An applicant who has been lawfully admitted for temporary resident status may apply for adjustment of status if the applicant can demonstrate that he or she meets basic literacy and citizenship skills (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or can demonstrate that he or she 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. *See* section 245A(b)(1)(D) of the Act, 8 U.S.C. § 1255a(b)(1)(D).

An applicant may demonstrate the basic literacy and citizenship skills requirement during the course of the permanent residence interview, or by passing a standardized test given in the English language by the Legalization Assistance Board with the Educational Testing Service or the California State Department of Education with the Comprehensive Adult Student Assessment System. *See* 8 C.F.R. § 245a.3(b)(4)(iii)(A).

The record shows that the Applicant initially was interviewed in connection with her Form I-698 on February 18, 1997. The Applicant was tested on her ability to speak, read and write English, and to answer basic questions about the U.S. history and government. The Applicant did not pass the test. An applicant who does not pass the English literacy or the U.S. history tests at the time of the

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interview must be afforded another opportunity to pass the tests or to submit evidence that he or she has otherwise fulfilled the literacy and citizenship skills requirement. *See* 8 C.F.R. § 245a.3(b)(4)(iii)(B). The record does not show that the Applicant submitted any evidence of compliance with the basic literacy and citizenship skills requirement following her interview on February 18, 1997. The Applicant was given another opportunity to demonstrate her basic literacy and citizenship skills on December 17, 2013, but again she was not able to speak, read, or write English, and she was not able to answer basic questions about the history and government of the United States.

The regulations provide for a waiver of all or part of the literacy and citizenship skills requirements for applicants who are at least 65 years of age, or who are over 50 years of age who have resided in the United States at least 20 years, or who are developmentally or physically disabled as of the date of the application or the date of eligibility for permanent residence, whichever date is later. *See* 8 C.F.R. § 245a.3(b)(4)(ii).

The record shows that the Applicant was born on [REDACTED] and that her Form I-698 was filed on November 17, 1990. The Applicant was less than 65 years of age at the time she filed the application. Although the Applicant was over the age of 50 on November 17, 1990, she had not resided in the United States for at least 20 years<sup>1</sup> as of the date of the application. In addition, the record does not include evidence to show that the Applicant was unable to comply with the basic citizenship skills requirements because of a developmental or physical disability. Therefore, the Applicant does not fall within any of the waiver criteria described at 8 C.F.R. § 245a.3(b)(4)(ii).<sup>2</sup>

Accordingly, because the Applicant did not meet the basic literacy and citizenship skills requirement and did not establish eligibility for a waiver of this requirement, the Director accurately set forth a legitimate basis for denial of the Applicant's Form I-698.

8 C.F.R. § 103.3(a)(1)(v) provides that when the party concerned does not identify specifically any erroneous conclusion of law or statement of fact for the appeal, an officer to whom an appeal is taken shall summarily dismiss any appeal. The Applicant's appeal does not identify any erroneous conclusion of law or statement of fact in the Director's decision. Therefore, the appeal must be summarily dismissed.

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<sup>1</sup> The evidence in the record indicates that the Applicant first entered the United States in 1972.

<sup>2</sup> The record includes another Form I-698 that the Applicant filed on August 12, 2013. Although she was over 65 years of age at the time of filing, the Form I-698 was filed outside of the 43-month filing period and could not be adjudicated favorably even if the Applicant had satisfied the citizenship skills waiver requirements. *See* 8 C.F.R. § 245a.3(c). The Applicant withdrew this Form I-698 on September 11, 2013. The withdrawal was acknowledged by the Director on June 19, 2014.

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**ORDER:** The appeal is summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

Cite as *Matter of M-I-R-*, ID# 14319 (AAO Dec. 4, 2015)