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U.S. Citizenship  
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FILE: [REDACTED]

Office: LOS ANGELES

Date: AUG 23 2005

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. 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, Director  
Administrative Appeals Office

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

The director concluded that the applicant had exceeded the forty-five (45) day limit for a single absence, as well as the aggregate limit of one hundred and eighty (180) days for total absences from the United States. Accordingly, the director denied the application.

On appeal, counsel asserts that the applicant returned to Mexico in 1986 to give birth to her child, and remained in Mexico because her son was born with medical complications. Counsel provides copies of documents that were previously submitted.

“Continuous unlawful residence” is defined at 8 C.F.R. § 245a.15(c)(1), as follows: An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded *forty-five (45) days*, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to *emergent reasons*, his or her return to the United States could not be accomplished within the time period allowed.

At the time of her LIFE interview, the applicant admitted in a sworn statement that she departed the United States in March 1986 and did not return until September 1987 because of medical complications with her pregnancy and her son’s birth.

The director issued a Form I-72 date March 4, 2004, advising the applicant to submit evidence of her child’s medical condition at the time of his birth. The applicant, in response, submitted a letter with English translation from [REDACTED] medical surgeon and obstetrician who indicated that the applicant remained in Mexico from December 1986 to September 1987 due to her son’s medical therapy.

The director in her Notice of Intent to Deny dated June 21, 2004, informed the applicant that the letter provided by her doctor failed to mention the type of treatment her son received and the seriousness of the condition. The applicant was also informed that her absence from March 1986 to December 1986 exceed the 45-day limit for a single absence.

The applicant, in response, submitted an additional letter with English translation from Dr. [REDACTED] indicating that the applicant’s son had “syndrome convulsive” and “dermatosis disseminated in trunk and extremities,” which was controlled during 1987.

While not dealt with in the district director’s decision, there must, nevertheless, be a further determination as to whether the applicant’s prolonged absence from the United States was due to an “emergent reason.” Although this term is not defined in the regulations, *Matter of C-*, 19 I&N Dec. 808 (Comm. 1988) holds that *emergent* means “coming unexpectedly into being.”

Based on Dr. Montano’s letters, the applicant’s prolonged absence from December 7, 1986, the date of her son’s birth, to September 1987 was due to an emergent reason that came suddenly into being and delayed the applicant’s return to the United States. However, neither counsel nor the applicant has addressed her additional absence of eight months, from March 1986 through December 1986. In the absence of additional evidence from the applicant, it is determined that this eight-month absence exceeded the 45 day period allowable for a single absence, as well as the 180 day aggregate total for all absences.

Accordingly, the applicant’s eight-month stay in Mexico from March 1986 to November 1986 interrupted her “continuous residence” in the United States. The applicant has, therefore, failed to establish that she resided in the United States in an unlawful status continuously from before January 1, 1982 through May 4, 1988, as

required by the statute, section 1104(c)(2)(B)(i) of the LIFE Act, and the regulations, 8 C.F.R. § 245a.11(b) and 15(c)(1). Given this, she is ineligible for permanent resident status under section 1104 of the LIFE Act.

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