



U.S. Citizenship
and Immigration
Services

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FILE:



Office: Los Angeles

Date: MAY 08 2008

MSC 02 087 61003

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:



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.

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, Los Angeles, California, and is before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The district director determined that the applicant had not established that she resided in the United States in a continuous unlawful status from before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B) of the LIFE Act. The district director also determined that the applicant admitted under oath at her interview on December 19, 2002 that she had been absent from this country for six months from February 1982 to August 1982 when she traveled to Chile. The district director concluded that the applicant was not eligible to adjust to permanent residence under section 1104 of the LIFE Act, and, therefore, denied the Form I-485 LIFE Act application.

On appeal, the applicant acknowledges that her absence from the United States in 1982 was in excess of forty-five days but claims that her return to this country was delayed by an emergent reason. The applicant includes copies of previously submitted documentation and one new letter in support of her appeal.

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. Section 1104(c)(2)(B) of the LIFE Act and 8 C.F.R. § 245a.11(b).

“Continuous residence” is defined at 8 C.F.R. § 245a.15(c), as follows:

An alien shall be regarded as having resided continuously in the United States if: (1) 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[.] [Emphasis added.]

An applicant for permanent resident status under section 1104 of the LIFE Act has the burden to establish by a preponderance of the evidence that he or she has resided in the United States for the requisite periods, is admissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act (Act), and is otherwise eligible for adjustment of status under this section. Section 1104(c)(2) of the LIFE Act. The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. 8 C.F.R. § 245a.12(e).

Although the regulation at 8 C.F.R. § 245a.2(d)(3) provides an illustrative list of contemporaneous documents that an applicant may submit in support of his or her claim of

continuous residence in the United States in an unlawful status since prior to January 1, 1982 to May 4, 1988, the submission of any other relevant document including affidavits is permitted pursuant to 8 C.F.R. § 245a.2(d)(3)(vi)(L).

The regulation at 8 C.F.R. § 245a.2(d)(3)(i) states that letters from employers attesting to an applicant's employment must: provide the applicant's address at the time of employment; identify the exact period of employment; show periods of layoff; state the applicant's duties; declare whether the information was taken from company records; and, identify the location of such company records and state whether such records are accessible or in the alternative state the reason why such records are unavailable.

The regulation at 8 C.F.R. § 245a.2(d)(3)(v) states that attestations by churches, unions, or other organizations to the applicant's residence by letter must: identify applicant by name; be signed by an official (whose title is shown); show inclusive dates of membership; state the address where applicant resided during membership period; include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery; establish how the author knows the applicant; and, establish the origin of information contained in the attestation.

The "preponderance of the evidence" standard requires that the evidence demonstrate that the applicant's claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm. 1989). In evaluating the evidence, *Matter of E-M-* also stated that "[t]ruth is to be determined not by the quantity of evidence alone but by its quality." *Id.* at 80. Thus, in adjudicating the application pursuant to the preponderance of the evidence standard, the director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.

Even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is "probably true" or "more likely than not," the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardozo-Fonseca*, 480 U.S. 421, 431 (1987) (defining "more likely than not" as a greater than 50 percent probability of something occurring). If the director can articulate a material doubt, it is appropriate for the director to either request additional evidence or, if that doubt leads the director to believe that the claim is probably not true, deny the application or petition.

The first issue to be examined in this proceeding is whether the applicant has submitted sufficient credible evidence to meet his or her burden of establishing continuous unlawful residence in the United States during the entire requisite period. Here, the applicant has failed to meet this burden.

The applicant made a claim to class membership in a legalization class-action lawsuit and as such, was permitted to previously file a Form I-687, Application for Temporary Resident Status Pursuant to Section 245A of the Act with the Immigration and Naturalization Service or the Service (now Citizenship and Immigration Services or CIS) on June 26, 1990. At part #33 of the Form I-687 application where applicants were asked to list all residences in the United States since the date of their first entry, the applicant listed [REDACTED] Los Angeles, California from November 1981 to October 1984 and [REDACTED] in Los Angeles, California from October 1984 to the date the Form I-687 application was submitted on June 26, 1990. At part #35 of the Form I-687 application where applicants were asked to list all absences from the United States beginning from January 1, 1982, the applicant listed a single absence from this country when she traveled to Chile on a business trip from August 1982 to September 1982.

With the Form I-687 application, the applicant included a "Affidavit for Determination of Class Membership in League of United Latin American Citizens v. INS (LULAC)" in which she claimed she first entered the United States without inspection in May 1981. The applicant also testified that she departed this country from Los Angeles International Airport in August 1982 and subsequently reentered the United States at Los Angeles International Airport with a nonimmigrant B-2 visitor's visa in September 1982. Although the applicant claimed that she had only been absent from this country from August 1982 to September 1982 on both the Form I-687 application and the class membership determination form, the record contains photocopied pages from the applicant's Chilean passport that had been issued to her in Santiago, Chile on February 3, 1982. The passport contains a B-2 nonimmigrant visa that was issued to the applicant at the United States Embassy in Santiago, Chile on August 13, 1982. The passport also contains a stamp demonstrating that the applicant subsequently utilized the visa to enter this country at Los Angeles, California on September 1, 1982. The applicant claimed that she misrepresented material facts in obtaining the nonimmigrant visa with the intent to subsequently remain and reside in the United States after her entry and submitted a Form I-690, Application for Waiver of Inadmissibility pursuant to Section 245A of the Act, in an attempt to overcome the ground of inadmissibility arising from her actions. Nevertheless, the applicant failed to offer any explanation as to how a Chilean passport was issued to her in Santiago, Chile on February 3, 1982 in light of her claim she was residing in the United States on such date.

The record contains sufficient evidence including contemporaneous documents, letters, and affidavits to establish that the applicant continuously resided in the United States after her entry into the country on September 1, 1982 through May 4, 1988.

In support of her claim of continuous residence in the United States since her first purported entry in May 1981, the applicant submitted a photocopy of a portion of the first page of the tenant's copy of a residential lease. The lease listed "Haven 501" as the landlord and the applicant and her brother as tenants of unit 206 at [REDACTED] in Los Angeles, California. The lease listed the initial term of the agreement as beginning on November 25, 1981 and ending on November 30, 1981 with the agreement continuing for successive terms of one

month with a monthly rent of \$218.00 until termination of the lease. However, it must be noted that the terms of lease are unusual and not within industry standards as the term of the initial lease was that six-day period beginning November 25, 1981 and ending November 30, 1981 with the lease thereafter reverting to a month-to-month lease.

Although the applicant claimed that she initially entered the United States in May 1981 and resided in this country up through that date the lease agreement purportedly began on November 25, 1981, she failed to submit any evidence with the Form I-687 application reflecting residence in this country for this period. The fact that the applicant claimed to have entered this country in May of 1981 but failed to list any residence in the United States prior to November 1981 at part #33 of the Form I-687 application only serves to further undermine both the applicant's overall credibility and the specific credibility of her claim of residence in this country from prior to January 1, 1982.

The record shows that the applicant subsequently filed her Form I-485 LIFE Act application on December 26, 2001. At part #3A of the Form I-485 LIFE Act application, the applicant reiterated her claim that she first entered the United States without inspection in May 1981 and that she subsequently returned to this country after an absence by reentering the United States with a B-2 nonimmigrant visa in September of 1982.

With the Form I-485 LIFE Act application, the applicant included a statement from counsel who asserted that the applicant's absence from the United States in 1982 occurred from February 1982 until she returned to this country on September 1, 1982. Counsel claimed that the applicant departed the United States and traveled to her native Chile in February of 1982 with the intent to return to this country within a short period of time. Counsel contended that while in Chile, the applicant suffered a severe relapse of a medical condition, scleroderma, which resulted in renal failure. Counsel declared that the applicant's critical condition prevented her return to the United States as planned because her physician ordered bed rest until the applicant was well enough to travel. Counsel stated that documentation from the applicant's physician and/or other health care providers attesting to her medical condition would be forthcoming. However, counsel's assertion that the applicant's absence from this country occurred when she traveled to Chile from February 1982 to September 1, 1982 directly contradicted the applicant's prior testimony both at part #35 of the Form I-687 application and on the class membership determination form that such absence occurred from August 1982 to September 1982. Neither counsel nor the applicant offered any explanation as to why the applicant originally claimed she traveled to Chile for business from August 1982 to September 1982 if she had in fact been absent from the United States beginning in February 1982 and could not return to this country because she suffered a relapse of a recurring medical condition until September 1, 1982.

In support of her claim of residence in the United States for that portion of the requisite period from prior to January 1, 1982 through the date of her entry into this country on September 1, 1982, the applicant submitted a letter dated April 1, 1982 that was signed by and contained the letterhead of P. J. M. in Los Angeles, California. stated that the applicant was

a citizen of Chile who suffered from a severe collagen disease. [REDACTED] noted that the applicant was in need of immediate and long-term therapy that was not available in Chile. Dr. [REDACTED] urged that the applicant be allowed to come to the United States and be placed under his care for her significant medical problems. However, rather than attesting to the applicant's residence in this country, [REDACTED] statements reflect that the applicant was in Chile and seeking permission to enter this country to undergo medical treatment both prior to and as of the date of his letter, April 1, 1982.

The applicant included a letter containing the letterhead of the Church of the Immaculate Conception in Los Angeles, California that is signed by Reverend [REDACTED] who listed his position as pastor associate. In his letter, [REDACTED] stated that the applicant was a volunteer and parishioner in this church. [REDACTED] declared that the applicant had been attending Sunday mass and making weekly donations to the church since 1981. However, [REDACTED] failed to include the applicant's address of residence during that period that she was a member of the parish as required under 8 C.F.R. § 245a.2(d)(3)(v).

The applicant provided a photocopy of "House Rules" that appear to be an attachment to a rental agreement. The document contains the signatures of the applicant and her brother as well as the handwritten date November 25, 1981. While this date coincided with the initiation date of the residential lease that the applicant had previously submitted with her Form I-687 application, the "House Rules" do not contain any specific information or reference to directly link these documents.

The applicant submitted a letter containing the letterhead of Alliance Housing Management, Inc., in Los Angeles, California that is signed by [REDACTED], who listed his position as regional property manager. [REDACTED] indicated that company records reflected that the applicant and her brother were tenants in a building managed by the company at [REDACTED] in Los Angeles, California from November 1981 to October 1984. However, [REDACTED] did not specify either the particular unit where the applicant resided in this building or the type and nature of the company records that reflected the applicant's residence. While the previously submitted residential lease listed the same address for the rented premises, the document listed "Haven 501" as the landlord and provided no indication that the building was separately managed by Alliance Housing Management, Inc.

The applicant included an affidavit that is signed by [REDACTED] declared that she was a close friend of the applicant's brother and he first introduced the applicant to her at a dinner gathering in November 1981. [REDACTED] noted that she had remained close friends with the applicant since and that such relationship provided her with personal knowledge that the applicant resided in Los Angeles, California from November 1981 through the date the affidavit was executed on September 12, 1992. Although [REDACTED] claimed to have been a close friend of the applicant and attested to the general locale of her residence since November 1981, she failed to provide pertinent, detailed, and verifiable information to substantiate the applicant's claim of residence.

The applicant provided an affidavit signed by ██████████ who declared that he had personal knowledge that the applicant resided in Los Angeles, California from November 1981 through the date the affidavit was executed on September 9, 1992. ██████████ asserted that the basis of his knowledge regarding the applicant's residence in this country was based upon the fact that the applicant lived with him until she and her brother found a place to rent. However, ██████████ failed to specify the address where the applicant resided with him when she first came to the United States. In addition, it must be noted that ██████████ testimony that the applicant resided with him when she first came to this country in November 1981 contradicted the applicant's testimony consistently claiming that she first entered the United States in May 1981. While ██████████ attested to the general locale of the applicant's residence in this country during the requisite period, he failed to provide any specific, detailed, and verifiable testimony to corroborate the applicant's claim residence in the United States for the period in question.

The record shows that the applicant appeared for an interview relating to her Form I-485 LIFE Act application at CIS' District Office in Los Angeles, California on December 19, 2002. The notes of the interviewing officer reflect that the applicant admitted that she had been absent from the United States when she traveled to Chile in February 1982 and returned to this country on September 1, 1982. The interviewing officer's notes demonstrate that the applicant initially testified that she departed the United States because of her health, but then offered conflicting testimony by stating that she had traveled to Chile to see her sick grandmother. The fact that the applicant has offered contradictory and conflicting testimony regarding the dates, length, and purpose of her trip to Chile from February 1982 to September 1, 1982 detracted from her general credibility as well as the specific credibility of both her testimony relating to this absence and her claim of residence in the United States from prior to January 1, 1982.

During her interview, the applicant submitted a letter written in Spanish and signed by Dr. ██████████ of Limache, Chile. The letter is accompanied by a certified translation as required by 8 C.F.R. § 103.2(b)(3). ██████████ stated that the applicant was a patient of his from February to August of 1982 as a result of an initial presentation of bronchial pneumonia that complicated her diagnosed condition of scleroderma. ██████████ noted that the applicant's medical condition provoked renal insufficiency requiring a prolonged period of bed rest for the applicant. Although ██████████ letter is imprinted with the stamp of the Geriatric Hospital of La Paz de la Tarde, Limache, the letter was not accompanied by corresponding hospital or medical records as specified in the regulation at 8 C.F.R. 245a.2(d)(3)(iv). Consequently, the testimony of Dr. ██████████ is of limited probative value.

A review of the record reveals that the interviewing officer issued a Form I-72, Request for Additional Evidence, to the applicant at her interview on December 19, 2002 in which the applicant was asked to provide additional evidence in support of her claim of residence in this country during the requisite period. The applicant was granted ninety days to respond to the request.

In response to the Form I-72, counsel submitted a statement in which she asserted that the applicant traveled to Chile in February of 1982 to see her ill grandmother. Counsel contended that the applicant's pre-existing scleroderma was "exacerbated" during her trip and caused her to delay her return to this country until September 1, 1982. However, counsel failed to relate that the applicant's scleroderma exacerbated because of bronchial pneumonia as [REDACTED] had previously testified in his letter.

The applicant provided a letter dated May 27, 1982 that contained the letterhead of R.G. Associates, Inc., in Los Angeles, California and is signed by [REDACTED] who listed her position as chief financial officer. The letter is a form letter providing notice from the landlord of "Haven 501" to tenants of the building that an application for approval of a New Model Lease for Subsidized Programs would be submitted to the United States Department of Housing and Urban Development. However, the applicant failed to provide any explanation as to how she was in possession of this letter as she has admitted that she was in Chile on the date of the letter and was purportedly bedridden because of pneumonia and a relapse of her scleroderma. Further, it must be noted that the letterhead of this document did not list Alliance Housing Management, Inc., as the property manager but instead listed U.S. Property Management Co. The fact that Alliance Housing Management, Inc., was not listed as the property manager of this building brings into question the authenticity of the previously submitted letter attesting to the applicant's residence from November 1981 to October 1984, which is signed by this company's regional property manager, [REDACTED].

On July 14, 2004, the district director issued a notice of intent to deny the application because the applicant failed to submit sufficient evidence of continuous unlawful residence in the United States from prior to January 1, 1982 through the date she entered the United States with a B-2 visitor's visa on September 1, 1982. The district director noted that the applicant had diminished her credibility by providing contradictory documentation and testimony regarding the dates, length, and purpose of her trip to Chile from February 1982 to September 1, 1982. The district director further determined that the applicant's admitted absence of over six months from the United States during this period exceeded the forty-five day limit for a single absence from this country as put forth in 8 C.F.R. § 245a.15(c)(1). The applicant was granted thirty days to respond to the notice.

In response, the applicant submitted a statement in which she reiterated her claim that she first entered the United States in May 1981. The applicant declared that she did not understand why the preparer of her Form I-687 application had listed the dates of her absence as August 1982 to September 1982 as she had informed the preparer that the dates of her absence had been from either January 23, 1982 or January 25, 1982 to September 1982. The applicant stated that the purpose of her trip to Chile in January 1982 was to see her ill grandmother but that her return to this country was delayed because she suffered a relapse of scleroderma and her doctor ordered bed rest until she was well enough to travel again. The applicant claimed that she did not notice that the dates of her absence had been erroneously listed on the Form I-687 application because of her limited proficiency in the English language. However, the applicant's explanation cannot

be considered as sufficient as the applicant certified under penalty of perjury that the testimony and information contained in the Form I-687 application was true and correct. The fact that the applicant revised the dates of this absence a third time (initially claimed as August 1982 to September 1982 on the Form I-687 application and class membership determination form, then February 1982 to September 1982 at her interview on December 19, 2002, and finally either January 23, 1982 or January 25, 1982 to September 1, 1982 in her response to the notice of intent to deny) only served to further diminish the applicant's credibility. In addition, the applicant's explanation failed to address the fact that the purpose of the trip was originally listed as "business" on the Form I-687 application and the applicant subsequently revised her testimony by claiming that the reason she traveled to Chile in 1982 was her desire to see her ill grandmother. Moreover, the applicant failed to assert that her relapse of scleroderma was brought on by bronchial pneumonia as [REDACTED] had previously testified in his letter regarding the applicant's medical condition from February 1982 to September 1982.

The applicant claimed that when she first entered this country in May of 1981 she resided at the home of her brother's godmother, [REDACTED] in Los Angeles, California. The applicant asserted that she lived at this address until she and her brother were able to obtain the apartment on S. Burlington in Los Angeles, California. The applicant attempted to address the fact that she did not list any residence in the United States from May 1981 to November 1981 by stating that the preparer of her Form I-687 application told her that it was only necessary to establish residence in this country before January 1, 1982 and the copy of the residential lease for the apartment on S. Burlington she submitted was sufficient to establish residence as of November 1981. However, the applicant's explanation is not reasonable as the directions at part #33 of the Form I-687 application clearly direct applicants to list all residences in the United States since the date of their first entry. More importantly, the applicant failed to submit any supporting documentation to corroborate her claim that she lived with [REDACTED] Bender at [REDACTED] in Los Angeles, California from May 1981 to November 1981. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The applicant submitted a complete eight-page photocopy of the residential lease of which she had previously provided only a photocopy of a portion of the first page. The lease was purportedly executed on November 25, 1981 and is signed by the applicant and her brother as tenants and a representative of R.G.R. Associates, Inc., dba U.S. Property Management Co., as the landlord. The lease also listed R.G.R. Associates, Inc., dba U.S. Property Management Co. as the managing agent of [REDACTED]. Once again, the fact that R.G.R. Associates, Inc., dba U.S. Property Management Co. Inc., was listed as the property manager of this building rather than Alliance Housing Management brings into question the authenticity of the previously submitted letter attesting to the applicant's residence from November 1981 to October 1984, which is signed by this company's regional property manager, Ron Nelson.

The district director determined that the applicant failed to submit sufficient evidence demonstrating her residence in the United States in an unlawful status since prior to January 1, 1982. The district director further determined that the applicant admitted that she had been absent from this country from January 1982 to September 1982. The district director concluded that the applicant was not eligible to adjust to permanent residence under section 1104 of the LIFE Act, and, therefore, denied the Form I-485 LIFE Act application on August 20, 2004. However, the notice of denial stated that the applicant had failed to submit a response to the notice of intent to deny and consequently the district director withdrew the denial and reopened the case on August 20, 2004. The district director subsequently acknowledged receipt of the applicant's response but again concluded that the applicant was not eligible to adjust to permanent residence under section 1104 of the LIFE Act, and, therefore, denied the Form I-485 LIFE Act application on February 14, 2005.

On appeal, the applicant reiterates her claim of continuous residence in this country for the requisite period and asserts that she has submitted sufficient evidence in support of such claim. The applicant provides a letter that is signed by [REDACTED] states that the purpose of the letter was to verify the applicant's residence in Los Angeles, California from May 1981 through March 8, 2005, the date the letter was executed. While [REDACTED] lists addresses of residence for the applicant that correspond to those where she claimed to reside after November 1981, [REDACTED] fails to provide any specific and pertinent testimony relating to the applicant's residence in this country from May 1981 to November 1981.

The evidence contained in the record relating to the applicant's residence in the United States from prior to January 1, 1982 up to her entry into this country with a B-2 visitor's visa on September 1, 1982 lacks sufficient detail, contains little verifiable testimony, and includes information that is both conflicting and contradictory in nature. More importantly, the applicant has damaged her own credibility by repeatedly revising her testimony regarding the dates, length, purpose, and circumstances of her admitted absence from the United States from late January 1982 to September 1, 1982.

Doubt cast on any aspect of the evidence may lead to a reevaluation of the reliability and sufficiency of the remaining evidence. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon an applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 591-592.

The absence of sufficiently detailed supporting documentation and the existence of contradictory testimony seriously undermine the credibility of the applicant's claim of residence in this country for that period from prior to January 1, 1982 to September 1, 1982, as well as the credibility of the documents submitted in support of such claim. Pursuant to 8 C.F.R. § 245a.12(e), the inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification. The applicant has failed to submit

sufficient credible documentation to meet her burden of proof in establishing that she has resided in the United States for the entire requisite period by a preponderance of the evidence as required under both 8 C.F.R. § 245a.12(e) and *Matter of E- M-*, 20 I&N Dec. 77.

Given the applicant's reliance upon documents with minimal or no probative value and the conflicting and contradictory testimony contained in the record, it is concluded that she has failed to establish continuous residence in an unlawful status in the United States from prior to January 1, 1982 through May 4, 1988 as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act.

The next issue to be determined in this proceeding relates to the applicant's admitted absence of over seven months from this country during that period from late January 1982 to September 1, 1982. Clearly the applicant's absence exceeded the forty-five day limit for a single absence put forth in 8 C.F.R. § 245a.15(c)(1). While not dealt with in the district director's decision, there must, nevertheless, be a further determination as to whether the applicant's 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, 810 (Comm. 1988) holds that emergent means "coming unexpectedly into being."

The applicant declares that the purpose of her trip to Chile in January 1982 was to see her ill grandmother but that her return to this country was delayed because she suffered a relapse of scleroderma and her doctor ordered bed rest until she was well enough to travel again. As previously discussed, the applicant submitted a letter signed by [REDACTED] who noted that the applicant was a patient of his from February to August of 1982 as a result of an initial presentation of bronchial pneumonia that complicated her diagnosed condition of scleroderma. [REDACTED] noted that the applicant's medical condition provoked renal insufficiency requiring a prolonged period of bed rest. However, the testimony of [REDACTED] is of limited probative value as it was not accompanied by any corresponding hospital or medical records. Although Dr. [REDACTED] asserted that the applicant initially suffered from bronchial pneumonia, the applicant failed to mention that this was the cause of her relapse. Moreover, the evidence in the record reflects that the applicant had knowledge of the fact that she had scleroderma prior to her departure from this country and should have been aware that a relapse of her medical condition was not only foreseeable but imminent. Finally, the fact that the applicant has repeatedly revised her testimony relating to the dates, length, and purpose of this purported absence has irreparably harmed her credibility and any explanation that she offered relating to the circumstances of such absence. As such, it cannot be concluded that the applicant's claimed absence from the United States of more than seven months from late January 1982 to September 1, 1982 was due to an "emergent reason" within the meaning of *Matter of C*, *supra*.

The applicant has specifically admitted that she was absent from the United States from late January 1982 until September 1, 1982 and her absence from this country during the requisite period exceeded the forty-five day limit for a single absence. The applicant has failed to credibly

document that an emergent reason delayed her return to the United States. The applicant's absence from this country must be considered to have broken her continuous unlawful residence in the United States from prior to January 1, 1982 through May 4, 1988, as required under section 1104(c)(2)(B) of the LIFE Act. The applicant is, therefore, ineligible for permanent resident status under section 1104 of the LIFE Act on this basis as well.

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