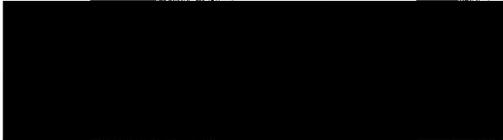




U.S. Department of Justice
Immigration and Naturalization Service

G 1

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
UUB, 1st Floor
Washington, D.C. 20536



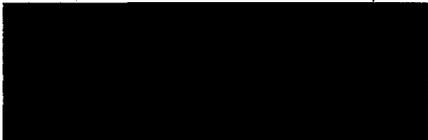
FILE: _____ Office: Miami

Date: **AUG 1 2000**

IN RE: Obligor: _____
Bonded Alien: _____

IMMIGRATION BOND: Bond Conditioned for the Delivery of an Alien under § 103 of the
Immigration and Nationality Act, 8 U.S.C. 1103

IN BEHALF OF OBLIGOR:



Public Coy

INSTRUCTIONS:

This is the decision in your case: All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavit or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.:

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the Assistant District Director, Miami, Florida, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The record indicates that on November 14, 1997 the obligor posted a \$5,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated September 28, 1999 was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of the Immigration and Naturalization Service the Service' for interview at 9:00 a.m. October 12, 1999 at Miami, FL 33138. The obligor presently tea Jen, a the alien failed to appear as required. On December 22, 1999, the assistant district director informed the obligor that the delivery bond had been breached.

On appeal, counsel asserts that the district director erred in breaching the bond because: (1) he did not notify the obligor of all hearings in the alien's case, and (2) he sent the alien notice to appear for removal (Form I-166), contrary to Service regulations".

On appeal, counsel requests an additional 60 days in which to file a written brief after the receipt of the alien's file pursuant to the filing of a Freedom of Information Act (FOIA) request and states that the facts of the case, and the law applicable thereto, are complicated.

It should be noted that the facts present in the case at hand are similar not only to numerous cases already presented to the Associate Commissioner by the obligor on previous appeals but to a myriad of similar cases adjudicated by the Associate Commissioner since the inception of the Office of Administrative Appeals in 1983. Therefore, the request is denied.

Delivery bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to an immigration officer or immigration judge upon each and every written request until removal proceedings are finally terminated, or until the alien is actually accepted by the immigration officer for detention or removal. Matter of Smith, 16 I&N Dec. 1461 (Reg. Comm. 1977).

The regulations provide that an obligor shall be released from liability where there has been "substantial performance" of all conditions imposed by the terms of the bond. 8 C.F.R. 103.6(C) (3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. 103. (e).

8 C.F.R. 103.5a(a) (2) provides that personal service may be effected by any of the following:

- (i) Delivery of a copy personally;

Service to function in an orderly manner. The courts have long considered the confusion which would result, if aliens could be surrendered at any time or place it suited their or the surety's convenience. Matter of L-, 3 I&N Dec. 862 (C.O., 1950).

After a careful review of the record, it is concluded that the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the assistant district director will not be disturbed.

ORDER: The appeal is dismissed.