



U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FILE: [Redacted] Office: Harlingen

Date: SEP 26 2000

IN RE: Obligor: [Redacted]
Bonded Alien: [Redacted]

IMMIGRANON 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: Self-represented

Public Copy

INSTRUCTIONS:

This is the decision in your case. An 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 a 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 affidavits 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 SIID as **required** under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER;
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, Harlingen, Texas and is now before the Associate Commissioner for Examinations on appeal. The appeal has been filed by an attorney who appears to represent the bonded alien. The bonded alien and the alien's attorney are without standing in this proceeding. See Matter of Insurance Company of North America, 17 I&N Dec. 251 (Act. Reg. Comm. 1978). However, in the interest of due process, the case will be considered on certification pursuant to 8 C.F.R. 103.4. The district director's decision declaring the bond breached will be affirmed.

The record indicates that on April 29, 1999 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 May 1, 2000 was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender to the Immigration and Naturalization Service on May 31, 2000 at 9 a.m. The obligor failed to appear as required. On June 28, 2000 the district director informed the obligor that the delivery bond had been breached.

On appeal, the bonded alien states that he was not notified of the master hearing in Harlingen, Texas. When he was notified, he was not given permission to change venue to Dallas County where he has always lived. He states that there was no possible way for him to appear in Harlingen on the date and time of the master hearing and that the notice was not sent to the proper address.

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, as specified in the appearance notice, upon each and every written request until removal proceedings are finally terminated, or until the said alien is actually accepted by the Service for detention or removal. Matter of Smith, 16 I&N Dec. 146 (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(6)(3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. 103.6(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;
- (ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;
- (iii) Delivery of a copy at the office of an attorney or other person including a corporation, by leaving it with a person in charge;

(iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

The bond (Form 1-352) provides in pertinent part that the obligor agrees that any notice to him/her in connection with this bond may be accomplished by mail directed to him/her at [REDACTED]. In this case, the Form 1-352 listed [REDACTED] as the obligor's address.

Contained in the record is a certified mail receipt which indicates that the Notice to Produce was sent to the obligor at [REDACTED] on May 1, 2000. This notice demanded that the obligor produce the bonded alien for removal on May 31, 2000. Contrary to the obligor's claims, on appeal, the receipt also indicates the obligor received notice to produce the bonded alien on May 5, 2000. Consequently, the record clearly establishes that the district director properly served notice on the obligor in compliance with 8 C.F.R. 103.5a(a)(2) (iv).1

Furthermore, it is clear from the language used in the bond agreement that the obligor shall cause the alien to be produced or the alien shall produce himself to a Service officer upon each and every request of such officer until removal proceedings are either finally terminated or the alien is accepted by the Service for detention or removal. The bond agreement is silent as to any requirement compelling the Service to notify the obligor of all bond-related matters, despite the obligor's assertion to the contrary. Similarly, neither the statute, the regulations, nor administrative case law provide support for the obligor's allegation that the Service is required to notify the obligor of all bond-related matters.

It must be noted that delivery of bonds are exacted to insure that aliens will be produced when and where required by the Service for hearings or removal. Such bonds are necessary in order for the 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 district director will not be disturbed.

ORDER: The district director's decision declaring the bond breached is affirmed.