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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:

JUL 16 2001

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

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

IN BEHALF OF OBLIGOR:



Public Copy

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 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 \$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

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, Harlingen, Texas, and a subsequent appeal was sustained by the Associate Commissioner for Examinations on appeal. After notifying the obligor on May 7, 2001, of the intent to reopen the matter pursuant to 8 C.F.R. 103.5(a)(5)(ii), the Associate Commissioner will withdraw the order of September 7, 2000, sustaining the appeal and will affirm the district director's decision declaring the bond breached.

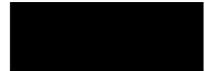
The Service motion reflects that on October 29, 1996, the obligor posted a \$3,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated April 11, 2000, as well as a questionnaire, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of the Immigration and Naturalization Service (the Service) for removal at 10:00 a.m. on May 10, 2000, at 2102 Teege Avenue, Harlingen, TX 78550. The receipt indicates that the obligor received the notice to produce the alien on April 13, 2000, and establishes that the district director properly served the notice in compliance with 8 C.F.R. 103.5a(a)(2)(iv). The obligor failed to present the alien, and the alien failed to appear as required. On May 16, 2000, the district director informed the obligor that the delivery bond had been breached.

On motion, the Associate Commissioner has determined that a questionnaire and photograph were attached to the Form I-340 notice that was sent to the obligor as required by the Amwest/Reno Settlement Agreement entered into on June 22, 1995, by the Service and Amwest and Far West Surety Insurance Companies as demonstrated by an attachment in the record. However, these documents were inadvertently omitted from the record of proceeding prepared for review by the Associate Commissioner.

The obligor was granted 30 days from May 7, 2001, to respond to the Associate Commissioner's finding. In rebuttal, counsel states that the regulations allow the affected party 30 days to file a response commencing when the Service's motion is served and not from the date the notice is served.

8 C.F.R. 103.5(A)(5)(ii) provides in part that the Service shall give the affected party 30 days after the service of the motion to submit a brief. 8 C.F.R. 103.5a(a)(1) states that routine service consists of mailing a copy by ordinary mail addressed to a person at his last known address. The record reflects that the Service properly served notification to the obligor pursuant to the regulations at 8 C.F.R. 103.5a(a)(1). The obligor was accordingly granted 30 days after service of the notification to submit a brief.

No brief has been entered into the record. Therefore, the order of September 7, 2000, sustaining the appeal will be withdrawn and the



district director's decision declaring the bond breached will be affirmed.

ORDER: The order of September 7, 2000, sustaining the appeal is withdrawn, and the district director's decision declaring the bond breached is affirmed.