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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: Los Angeles

Date: **MAR 26 2001**

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: Self-represented

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.

Identification data deleted to prevent clearly unwarranted invasion of personal privacy.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, Los Angeles, California, and a subsequent appeal was dismissed by the Associate Commissioner for Examinations. The matter is before the Associate Commissioner on a motion to reopen. The motion will be granted. The order dismissing the appeal will be withdrawn and the bond will be cancelled.

The record indicates that on March 27, 2000 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 May 22, 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 (the Service) for removal at 10:00 a.m. on July 18, 2000 at 300 North Los Angeles Street, Room 7621, Los Angeles, CA 90012. The obligor failed to present the alien, and the alien failed to appear as required. On July 21, 2000, the district director informed the obligor that the delivery bond had been breached. The Associate Commissioner affirmed that decision on appeal.

On motion, the obligor submits certified documentation which shows that the bonded alien departed the United States prior to the surrender date and arrived in Canada on April 3, 2000.

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 Service has held that an alien who departs from the United States prior to the date demanded for surrender may be in substantial compliance with the terms of his delivery bond. Matter of Don Donaldson's Key Bail Service, 13 I&N Dec. 563 (Acting Reg. Comm. 1969). However, the burden is upon the alien or his surety to prove by probative evidence that the alien did leave the country prior to his surrender date. Matter of Peerless Insurance Company, 15 I&N Dec. 133 (Reg. Comm. 1974).

After a careful review of the record, it is concluded that there has been a substantial compliance with the conditions of the bond. Consequently, the motion will be granted. The order dismissing the appeal will be withdrawn, the bond will be cancelled and the collateral will be returned.

ORDER: The motion is granted. The order of December 5, 2000 dismissing the appeal is withdrawn and the bond is cancelled.