



U.S. Department of Justice

Immigration and Naturalization Service

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

[Redacted]

FILE: [Redacted] Office: New York

Date: OCT 15 2001

IN RE: Obligor:
Bonded Alien:

[Redacted]

IMMIGRATION BOND: Bond Conditioned for Voluntary Departure under Section 240B
of the Immigration and Nationality Act, 8 U.S.C. 1230B

IN BEHALF OF OBLIGOR:

[Redacted]

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 voluntary departure bond in this matter was declared breached by the District Director, New York, New York, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The record indicates that on September 8, 2000, the obligor posted a \$1,000 bond for the voluntary departure of the above referenced alien based on the October 2, 2000, decision of an immigration judge who granted the alien until October 31, 2000, to depart voluntarily in lieu of removal. On March 7, 2001, the district director informed the obligor that the voluntary departure bond had been breached after failing to receive satisfactory evidence of that departure.

On appeal, counsel states that the immigration judge erred in making her decision to grant the alien voluntary departure. Counsel states that the alien was granted Withholding of Deportation (Withholding of Removal) to Haiti.

The record reflects that on September 1, 2000, an immigration judge granted the alien's application for voluntary departure until October 31, 2000, denied her application for asylum and granted her application for withholding of removal. The immigration judge also stipulated "withholding of removal under --- denied."

8 C.F.R. 240.26(c)(iii)(3) provides that, in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the district director.

8 C.F.R. 240.26(b)(ii)(3) provides that a voluntary departure bond is violated if the obligor/alien fails to provide proof that the bonded alien has departed the United States within the time specified.

A physical verification of departure by an immigration officer at the port of departure, or a verification of the alien's presence in the foreign destination by a United States consular officer or immigration officer abroad, is required to verify departure. Whether together or separate, Forms I-94 and departure manifests submitted by a transportation line are insufficient verification of departure for bond cancellation purposes.

The Service will accept a document signed by an embassy official, consular officer, or Service officer abroad, and bearing an appropriate seal or other indicia of reliability as proof that a voluntary departure or self-removal has occurred. The district director retains the discretion to accept other documents of voluntary departure. The original of such document[s] may be delivered [either] by the surety or through diplomatic channels. Copies of such documents will be accepted only if received through diplomatic channels.



The Associate Commissioner is bound by the immigration judge's decision. Any disagreement with that decision must be lodged in other proceedings.

After a careful review of the record, it is concluded that the conditions of the bond have been substantially violated, the alien failed to depart by the stipulated date, and the collateral has been forfeited. The decision of the district director will not be disturbed.

ORDER: The appeal is dismissed.