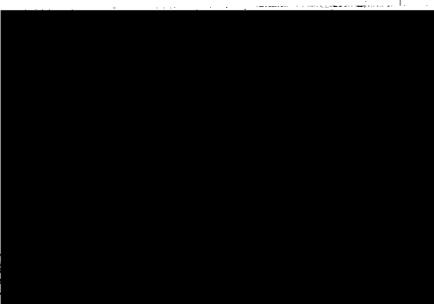




U.S. Department of Justice

Immigration and Naturalization Service



prevent clearly unwar...
invasion of personal
privacy

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



GI

07 AUG 2002

FILE: [Redacted]

Office: Houston

Date:

IN RE: Obligor:

Bonded Alien:



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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, Houston, Texas, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained. The district director's decision declaring the bond breached is rescinded, and the bond is cancelled.

The record indicates that on December 2, 1998, 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 November 16, 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 removal at 8:00 a.m. on December 16, 1999, at 126 Northpoint Drive, Houston, TX 77060. According to the a notation on the Form I-340, the Notice to Deliver Alien was not mailed until after the surrender date had expired. The handwritten notation further indicates that on January 7, 2000, the INS demand to surrender the bonded alien was extended to January 16, 2000. On May 25, 2000, the district director informed the obligor that the delivery bond had been breached as it was determined that the obligor failed to present the alien, and the alien failed to appear as required on January 16, 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 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. 146 (Reg. Comm. 1977).

On appeal, counsel asserts that the bond was not breached as the obligor surrendered the alien to the Service on January 13, 2000. As evidence, counsel provides a copy of the Form I-340 which contains an acknowledgement by a Service officer that the obligor had surrendered the alien on January 13, 2000.

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). The evidence indicates that the obligor surrendered the alien to the custody of the INS on January 13, 2000.

Consequently, the appeal will be sustained, the district director's decision declaring the bond breached will be rescinded, and the bond will be cancelled.

ORDER: The appeal is sustained. The district director's decision declaring the bond breached is rescinded. The bond is cancelled.