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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

[redacted]

2 6 AUG 2002

FILE: [redacted] Office: Boston Date:

IN RE: Obligor: [redacted]
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:

[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.

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, Boston, Massachusetts, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained. The decision declaring the bond breached will be withdrawn, and the bond will be cancelled.

The record indicates that on January 31, 2001, 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 December 18, 2001, 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 9:00 a.m. on January 15, 2002, at J.F.K. Federal Building, Government Center, Room 1775, Boston, MA 02203. The obligor failed to present the alien, and the alien failed to appear as required. On January 24, 2002, the district director informed the obligor that the delivery bond had been breached.

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).

The record reflects that an Order of the Immigration Judge was issued granting the alien voluntary departure on or before November 24, 2001. A Verification of Departure from the American Embassy in Guatemala indicates that the alien departed the United States on November 22, 2001.

Based on the documentation from the American Embassy in Guatemala, the district director's decision to breach the bond will be withdrawn, and the bond will be cancelled.

ORDER: The appeal is sustained. The bond is cancelled.