

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

GI
**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

FILE: [REDACTED] Office: El Paso Date:

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

AUG 18 2003

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

ON BEHALF OF OBLIGOR:

[REDACTED]

PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 Bureau of Citizenship and Immigrations Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, El Paso, Texas. A subsequent appeal was dismissed by the Administrative Appeals Office. The matter is now before the Administrative Appeals Office on a motion to reconsider. The motion will be granted. The decision of the Administrative Appeals Office will be affirmed.

The record indicates that on July 11, 2001, the obligor posted a \$7,500 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated October 29, 2001, 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 (INS), now the Bureau of Immigration and Customs Enforcement (BICE), at 9:00 a.m. on November 19, 2001, at 1545 Hawkins Boulevard, 1st Floor, El Paso, TX 79925. The obligor failed to present the alien, and the alien failed to appear as required. On December 3, 2001, the district director informed the obligor that the delivery bond had been breached.

On appeal, counsel stated that the El Paso District Director failed to provide the obligor with advance notice of hearings and orders to appear for removal which substantially interfered with the obligor's ability to monitor the alien and produce him upon receipt of the Form I-340.

The Director, Administrative Appeals Office (AAO), ruled in a decision dated June 12, 2002 that the obligor's assertion that it could not monitor or produce the alien did not overcome the basis for the breach of this bond, and that the obligor did receive the notice to deliver alien upon which the breach is based. The AAO further concluded that the obligor was bound by the terms of the bond contract to surrender the alien upon each and every written request until removal proceedings are finally terminated, or until the alien is actually accepted for detention or removal.

On motion, counsel asserts that the bonded alien was taken into custody on July 3, 2002. Counsel states that the breach should be rescinded and the bond canceled.

While the Bureau acknowledges the obligor's efforts, the alien was surrendered to the BICE seven and a half months following the breach. The alien's surrender for removal does not change the fact that a breach occurred when the obligor failed to deliver the alien on November 19, 2001.

Under the provisions of the Immigration Bond Form I-352, the obligor agrees to produce the alien upon demand until: (1) exclusion/deportation/removal proceedings are finally terminated; (2) the alien is accepted by the BICE for detention or deportation/removal; or (3) the bond is canceled for some other reason. The obligor is relieved of its contractual responsibility to deliver the alien only if one of these enumerated circumstances has occurred. As the obligor has not shown any of the above

occurrences, the bond breach resulting from the obligor's failure to produce the alien on November 19, 2001 is valid.

The decisions of the district director and the AAO will not be disturbed.

ORDER: The motion to reopen is granted. The decision of the AAO dated June 12, 2002 is affirmed.