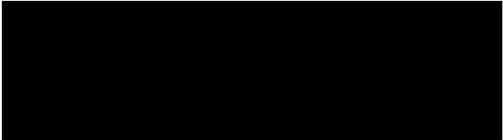


61

U.S. Department of Homeland Security

Citizenship and Immigration Services

Identifying data related to  
PIVOTAL  
Invasion of personal privacy  
ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street N.W.  
Washington, D.C. 20536



FILE: [Redacted] Office: San Diego

Date: DEC 29 2003

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

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: SELF-REPRESENTED

**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 Citizenship and Immigration Services (CIS) 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 by 8 C.F.R. § 103.7.

*Mari Johnson*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The delivery bond in this matter was declared breached by the District Director, San Diego, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that on June 18, 2002, 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 February 19, 2003 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 (legacy INS), now Immigration and Customs Enforcement (ICE), at 9:00 a.m. on March 25, 2003, at [REDACTED] San Diego, CA 92101. The obligor failed to present the alien, and the alien failed to appear as required. On March 31, 2003, the district director informed the obligor that the delivery bond had been breached.

On appeal, the obligor states that the bonded alien voluntarily departed the United States. The obligor provides a copy of an airline ticket stub and a copy of an apparent record of entry into Guatemala by the bonded alien on January 24, 2003,<sup>1</sup> issued by the Guatemalan authorities.

In order for the delivery bond to be canceled, satisfactory proof of departure must be provided to the district director. 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 United States immigration officer abroad, is required to verify departure.

ICE will accept a document signed by an American embassy official, consular officer, or immigration 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 documents may be delivered either by the obligor or through diplomatic channels. Copies of such documents will be accepted only if received through diplomatic channels.

No satisfactory evidence has been introduced into the record to establish the alien has departed the United States.

The bond contract provides that it may be canceled when (1) exclusion/deportation/removal proceedings are finally terminated; (2) the alien is accepted by ICE for detention or deportation/removal; or (3) the bond is otherwise canceled. The bond may be "otherwise canceled" when the obligor provides

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<sup>1</sup> The airline ticket stub and entry document reflect a different spelling of the bonded alien's first name, as does the Form I-290B, Notice of Appeal to the Administrative Appeals Unit.

satisfactory proof that the bonded alien has departed the United States. As the obligor has not shown that any of these circumstances apply, the bond is not canceled.

Delivery bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to an ICE 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 ICE officer for detention or removal. *Matter of Smith*, 16 I&N Dec. 146 (Reg. Comm. 1977).

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). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. § 103.6(e).

Pursuant to 8 C.F.R. § 103.5a(a)(2), personal service may be effected by any of the following:

- (i) Delivery of a copy personally;
- (ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;
- (iii) Delivery of a copy at the office of an attorney or other person including a corporation, by leaving it with a person in charge;
- (iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

The evidence of record indicates that the Notice to Deliver Alien was sent to the obligor at his last known address, [REDACTED] San Marcos, CA 92069 on February 19, 2003 via certified mail. This notice demanded that the obligor produce the bonded alien on March 25, 2003. This notice was returned as unclaimed by the U.S. Postal Service. Service by mail is sufficient when mailed to the obligor at his last known address. 8 C.F.R. 103.5(a)(2)(iv). Consequently, the record clearly establishes that the notice was properly served on the obligor in compliance.

Furthermore, it is clear from the language used in the bond agreement that the obligor shall cause the alien to be produced or the alien shall produce himself to an ICE officer upon each and every request of such officer until removal proceedings are either finally terminated or the alien is accepted by ICE for detention or removal.

It must be noted that delivery bonds are exacted to insure that

aliens will be produced when and where required by ICE for hearings or removal. Such bonds are necessary in order for ICE to function in an orderly manner. The courts have long considered the confusion which would result if aliens could be surrendered at any time or place it suited the alien's or the surety's convenience. *Matter of L-*, 3 I&N Dec. 862 (C.O. 1950).

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

**ORDER:** The appeal is dismissed.