



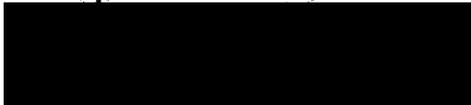
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U.S. Department of Justice

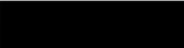
Immigration and Naturalization Service

PUBLIC COPY

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



FEB 28 2003

FILE:  Office: Dallas

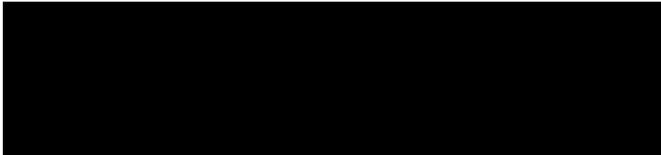
Date:

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:



**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, Dallas, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The record indicates that on June 30, 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 August 7, 2000, 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) at 9:00 a.m. on September 7, 2000, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On September 11, 2000, the district director informed the obligor that the delivery bond had been breached.

8 C.F.R. § 103.3(a)(2)(v)(B) states:

Untimely appeal--(1) Rejection without refund of filing fee. An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Untimely appeal--(2) Untimely appeal treated as motion. If an untimely appeal meets the requirements of a motion to reopen as described in section 103.5(a)(2) of this part or a motion to reconsider as described in section 103.5(a)(3) of this part, the appeal must be treated as a motion, and a decision must be made on the merits of the case.

Counsel's statement, on appeal, that the bonded alien did not breach his bond because his permanent residency was reinstated on January 22, 2002 is not supported by the record. The alien was ordered to appear on September 7, 2000. Under the terms of the bond contract the obligor was bound to surrender the alien on that date. When he failed to do so, the bond was breached.

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. 8 C.F.R. § 103.5a(b).

The decision clearly advised the obligor that any appeal must be filed within thirty days. Coupled with three days for mailing the appeal, in this case, should have been filed on or before October 16, 2000. The appeal was dated by counsel on October 17, 2002, and received by the Service on October 23, 2002.

Based upon the obligor's failure to file a timely appeal, the appeal will be rejected.



ORDER: The appeal is rejected.

