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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

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



JUL 23 2003

FILE:  Office: Miami 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:



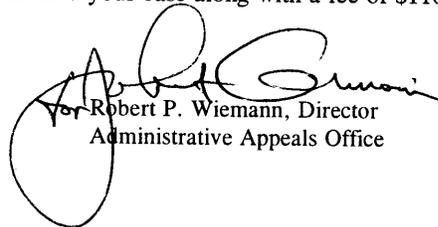
INSTRUCTIONS:

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 Immigration 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.


For Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, Miami, Florida, and the Administrative Appeals Office (AAO) sustained a subsequent appeal. The matter was reopened by the AAO on a Bureau motion pursuant to 8 C.F.R. § 103.5(a)(5)(ii), and the AAO notified the obligor of its intention to affirm the decision of the District Director. The obligor failed to respond. The District Director's decision declaring the bond breached will be affirmed.

The record reflects that on August 5, 1988, the obligor posted a \$25,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated December 19, 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 (INS), now the Bureau of Immigration and Customs Enforcement (BICE) at 9:00 a.m. on February 8, 2002 at

[REDACTED] The obligor failed to present the alien, and the alien failed to appear as required. On March 15, 2002, the district director informed the obligor that the delivery bond had been breached. [It is noted that the district director made a typographical error on the Form I-323; the demand month should have read December rather than January].

The AAO incorrectly sustained the appeal, finding that the District Director had notified the obligor to produce the alien outside of the 90-day period of detention authority. On motion, the AAO has determined that the bond breach was valid. The Attorney General, now the Secretary, Department of Homeland Security, has the continuing authority to detain the alien under the Immigration and Nationality Act (the Act), and thus to maintain the delivery bond. Section 241(a) of the Act, 8 U.S.C. § 1231(a). Further, under the provisions of the bond contract, the obligor agrees to produce the alien upon demand until removal proceedings are finally terminated. As the alien is still at large, the bond will not be canceled.

ORDER: The order of August 3, 2002 sustaining the appeal is withdrawn. The district director's decision declaring the bond breached is affirmed.