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Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

GH

APR 13 2004

FILE:

[Redacted]

Office: WASHINGTON

Date:

IN RE:

Obligor:  
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:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

*Robert P. Wiemann*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The delivery bond in this matter was declared breached by the District Director, Washington, DC, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained, and the bond continued in full force and effect.

The record indicates that on April 4, 2002, 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 January 15, 2003 was sent to the co-obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender to the Immigration and Naturalization Service (legacy INS), now Immigration and Customs Enforcement (ICE) at 10:00 a.m. on February 18, 2003, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On March 12, 2003, the district director informed the co-obligor that the delivery bond had been breached.

On appeal, fails to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal. Counsel requests a 60-day extension to file a brief subsequent to the receipt of the alien's file pursuant to his FOIA request. However, no additional evidence or documentation has been received by the AAO as of the date of this decision, over 11 months after the appeal was filed.

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 record fails to contain the domestic return receipt to indicate that the Notice to Deliver Alien was sent to the co-obligor at [REDACTED] on January 15, 2003, or to indicate that the obligor received the notice to produce the bonded alien on February 18, 2003. Consequently, the record fails to establish that the district director properly served notice on the obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).

Because the record fails to establish proper service of the Form I-340 on the obligor as required, the appeal will be sustained. The district director's decision declaring the bond breached will be rescinded and the bond will be continued in full force and effect.

**ORDER:** The appeal is sustained. The district director's decision declaring the bond breached is rescinded, and the bond is continued in full force and effect.<sup>1</sup>

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<sup>1</sup> An annotation on the Form I-323, Notice of Bond Breached, suggests that the district director may have rescinded the breach on April 23, 2003, thus rendering this appeal moot. However, no evidence in the record confirms that the breach was actually rescinded.