

PUBLIC COPY

GI

U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
and Immigration
Services

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



FILE:



Office: SAN ANTONIO

Date:

MAR 01 2004

IN RE:

Obligor:

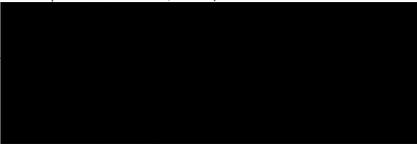
Bonded Alien



IMMIGRATION BOND:

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

ON BEHALF OF OBLIGOR:



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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, San Antonio, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The record indicates that on August 9, 2002 the obligor posted a \$20,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated December 14, 2002, was addressed to another 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 10:00 a.m. on January 28, 2003, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On October 2, 2003, the field office director informed the co-obligor that the delivery bond had been breached.

On appeal, counsel asserts that the obligor has no record of having received the Form I-340 dated December 14, 2002 demanding the surrender of the alien on January 28, 2003

The evidence of record reflects that the Form I-340 dated December 14, 2002 was inadvertently addressed to another obligor. As the obligor did not receive the notice to surrender the alien as required by the bond contract, the breach is not valid.

Part 9 of the Settlement Agreement entered into on June 22, 1995 by the legacy INS and Amwest Surety Insurance Company states:

INS agrees that no Form I-323, Notice - Immigration Bond Breached, shall be sent to the obligor more than 180 days following the date of the breach. If the I-323 is not sent to the obligor within 180 days following the date of the breach, then the declared breach shall be stale and unenforceable against the obligor.

As noted previously, the record indicates that the Form I-323, Notice - Immigration Bond Breached, was sent to the obligor on October 2, 2003. This notice was sent to the obligor based upon the obligor's failure to produce the bonded alien on January 28, 2003.

As the field office director delayed notification of the bond breach in violation of the conditions of the aforementioned Settlement Agreement, the breach is not valid. The appeal is sustained and the bond will be continued in full force and effect.

ORDER: The appeal is sustained. The field office director's decision declaring the bond breached is withdrawn, and the bond is continued in full force and effect.