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U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



FILE: [Redacted]

Office: SAN ANTONIO

Date: **MAR 01 2004**

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:



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, 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 September 24, 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 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 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.

Counsel argues that the service of the Form I-323 was untimely as it was issued over 180 days after the breach date.

Part 9 of the Settlement Agreement entered into on June 22, 1995 by the former 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 bond will be continued in full force and effect.