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Washington, DC 20536



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



GI

FILE:



Office: CHICAGO

Date:

MAR 15 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: Self-represented

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.

Elizabeth D'Amico
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, Chicago, Illinois, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The obligor appears to be represented; however, the record does not contain Form G-28, Notice of Entry of Appearance as Attorney or Representative. All representations will be considered, but the decision will be furnished only to the obligor.

The record indicates that on March 26, 2001, the obligor posted a \$2,500 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated August 11, 2003, 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 (legacy INS), now Immigration and Customs Enforcement (ICE), at 9:00 a.m. on August 26, 2003, at [REDACTED] obligor failed to present the alien, and the alien failed to appear as required. On August 27, 2003, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor argues that the bonded alien's counsel did not receive the notice to surrender the alien.

The obligor's assertion is without merit as an immigration bond is a contract between ICE and the obligor, not the bonded alien or his counsel. *See Matter of Insurance Company of North America*, 17 I&N Dec. 251 (Act. Reg. Comm. 1978). ICE correctly notified the obligor on Form I-340 to surrender the alien as demanded.

Delivery bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to an immigration officer or immigration judge upon each and every written request until removal proceedings are finally terminated, or until the alien is actually accepted by ICE for detention or removal. *Matter of Smith*, 16 I&N Dec. 146 (Reg. Comm. 1977).

The regulations provide that an obligor shall be released from liability where there has been "substantial performance" of all conditions imposed by the terms of the bond. 8 C.F.R. § 103.6(c)(3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. § 103.6(e).

8 C.F.R. § 103.5a(a)(2) provides that 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 evidence of record indicates that the Notice to Deliver Alien was sent to the obligor at [REDACTED] on August 11, 2003 via certified mail. This notice demanded that the obligor produce

the bonded alien on August 26, 2003. The domestic return receipt indicates the obligor received notice to produce the bonded alien on August 14, 2003. Consequently, the record clearly establishes that the notice was properly served on the obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).

It is clear from the language used in the bond agreement that the obligor shall cause the alien to be produced or the alien shall produce himself to an ICE officer upon each and every request of such officer until removal proceedings are either finally terminated or the alien is accepted by ICE for detention or removal.

It must be noted that delivery bonds are exacted to insure that aliens will be produced when and where required by ICE for hearings or removal. Such bonds are necessary in order for ICE to function in an orderly manner. The courts have long considered the confusion which would result if aliens could be surrendered at any time or place it suited the alien's or the surety's convenience. *Matter of L-*, 3 I&N Dec. 862 (C.O. 1950).

After a careful review of the record, it is concluded that the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field office director will not be disturbed.

ORDER: The appeal is dismissed.