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



**U.S. Citizenship
and Immigration
Services**

[Redacted]

FILE: [Redacted]

Office: NEW ORLEANS (MEM)

Date: **MAR 29 2004**

IN RE: Obligor: [Redacted]
Bonded Alien: [Redacted]

IMMIGRATION BOND: Bond Conditioned for Voluntary Departure under § 240B of the Immigration and Nationality Act, 8 U.S.C. § 1229c

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 voluntary departure bond in this matter was declared breached by the District Director, New Orleans, Louisiana, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The record indicates that on May 21, 1998, the obligor posted a \$1,000 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated May 18, 1998, was issued granting the alien voluntary departure in lieu of removal on or before July 17, 1998. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On December 6, 2002, the BIA affirmed, without opinion, the IJ's decision and granted the alien voluntary departure within 30 days from the date of the order. The district director ordered the alien to appear for removal at Immigration and Customs Enforcement at 10:00 a.m. on February 11, 2003, at [REDACTED]. The alien petitioned the 6th Circuit Court of Appeals for review of the BIA's decision, and filed a motion to stay removal. On February 6, 2003, the 6th Circuit Court of Appeals granted the motion to stay removal. On April 11, 2003, the district director concluded the bond had been breached.

Section 242(b)(3)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1252(b)(3)(B), provides that service of the petition for review does not stay the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

As previously mentioned, the 6th Circuit Court of Appeals issued a stay of removal on February 6, 2003, five days before the breach date. As the voluntary departure order was stayed, the breach of the voluntary departure bond is not valid. The bonded alien has been allowed to remain in the United States under the condition of the voluntary departure bond until further order of the court.

Therefore, the district director's decision to breach the bond will be withdrawn, the appeal will be sustained, and the bond will be continued.

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