



U.S. Citizenship  
and Immigration  
Services

IDENTIFICATION COPY  
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prevent identity information  
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[Redacted]

GI

FILE:

[Redacted]

Office: CHICAGO

Date: MAY 13 2004

IN RE:

Obligor:  
Bonded Alien:

[Redacted]

IMMIGRATION BOND:

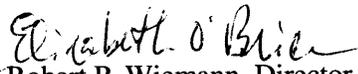
Bond Conditioned for the Delivery of an Alien under Section 103 of the  
Immigration and Nationality Act, 8 U.S.C. § 1103

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, 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 record indicates that on June 21, 2002, the obligor posted a \$10,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated September 22, 2003, was sent to the co-obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of Immigration and Customs Enforcement (ICE) at 11:30 a.m. on October 21, 2003,

The obligor failed to present the alien, and the alien failed to appear as required. On October 28, 2003, the field office director informed the co-obligor that the delivery bond had been breached.

On appeal, counsel states that according to the EOIR hotline, the alien's case is currently pending with an individual hearing scheduled on May 20, 2004. Counsel argues that nonetheless the field office director demanded the alien surrender for removal on October 21, 2003.

The record reflects that removal proceedings were held in absentia on September 3, 2003, and the alien was ordered removed from the United States. The alien filed a motion to reopen, which was subsequently granted by the immigration judge on October 17, 2003. Citizenship and Immigration Service records indicate that the alien has a individual hearing scheduled for May 24, 2004.

The field office director properly exercised his authority on September 22, 2003 by directing the obligor to produce the bonded alien for surrender. The obligor is not relieved of its responsibility to deliver and surrender the bonded alien at the time and place specified in the field office director's demand notice simply because the alien's case is currently pending. The field office director may call the alien in for a custodial determination at any time.

The present record contains evidence that a properly completed questionnaire with the alien's photograph attached was forwarded to the obligor with the notice to surrender pursuant to the Amwest/Reno Settlement Agreement, entered into on June 22, 1995 by the legacy Immigration and Naturalization Service and Far West Surety Insurance Company.

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 dated September 22, 2003 was sent to the obligor via certified mail. This notice demanded that the obligor produce the bonded alien on October 21, 2003. The United States Postal Service track and confirmation receipt indicates the obligor received notice to produce the bonded alien on September 29, 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.