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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: EL PASO Date: **MAR 29 2005**

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: 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.

A handwritten signature in cursive script that reads "Robert P. Wiemann".

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, El Paso, Texas and a subsequent appeal was sustained by the Administrative Appeals Office (AAO) on appeal. The matter will be reopened by the AAO on a Service motion pursuant to 8 C.F.R. § 103.5(a)(5)(ii).

The record indicates that on February 26, 2003, the obligor posted a \$7,500 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated December 8, 2003, was sent 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 10:00 a.m. on January 6, 2004, at 6451 Boeing Drive, 1st Floor, El Paso, TX 79925. The obligor failed to present the alien, and the alien failed to appear as required. On January 13, 2004, the field office director informed the obligor that the delivery bond had been breached.

The Form I-352 provides that the obligor and co-obligor are jointly and severally liable for the obligations imposed by the bond contract. As such, ICE may pursue a breach of bond against one or both of the contracting parties. *See Restatement (Third) of Suretyship and Guaranty § 50* (1996). Consequently the record clearly establishes that the notice was properly served on either the obligor or the co-obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv). Reference in this decision to the obligor is equally applicable to the co-obligor and vice versa.

The AAO sustained the obligor's appeal, finding that the field office director had failed to establish that the Notice to Deliver Alien was properly served on the obligor, as evidence of receipt for said notice was not in the record of proceeding. However, the document was inadvertently omitted from the record of proceeding prepared for review by the AAO. The record now includes the United States Postal Service track and confirmation receipt indicating that the Form I-340 was received by the obligor on December 12, 2003.

Based on the documentation in the record, the AAO reopens the matter, withdraws the order of November 22, 2004, and proposes to affirm the field office director's decision declaring the bond breached.

Pursuant to 8 C.F.R. § 103.5(a)(5)(ii), the obligor is granted 30 days from the date of this notice, in which to submit a brief in response to this notice.