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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

GI

[REDACTED]

FILE:

[REDACTED]

Office: NEWARK

Date:

JAN 10 2007

IN RE:

Obligor:
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: 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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Newark, New Jersey, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record indicates that on February 28, 2005, the obligor posted a \$500.00 bond conditioned for her voluntary departure. On February 22, 2005, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before April 24, 2005. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On May 3, 2006, the BIA summarily dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On September 9, 2006, the field office director concluded the bond had been breached on July 4, 2006.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the field office director issued the Notice-Immigration Bond Breached on September 9, 2006. The Form I-290B, Notice of Appeal is very clear in indicating that the appeal is not to be sent directly to the AAO. The obligor nevertheless, sent her appeal to the AAO. The appeal is not considered properly received until it is received by the district office, which rendered the unfavorable decision. The appeal was properly received at the respective district office on October 18, 2006, 39 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the field office director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The field office director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.