



U.S. Citizenship
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FILE:

Office: LOS ANGELES

Date: MAY 03 2007

IN RE:

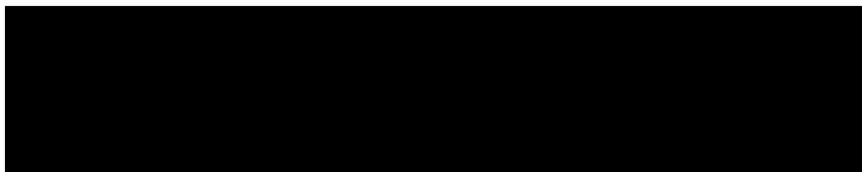
Obligor:
Bonded Alien



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:



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 delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on August 14, 2004, the obligor posted a \$5,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated October 13, 2005, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's to appear before an officer of Immigration and Customs Enforcement (ICE) at 9:30 a.m. on November 15, 2005, at [REDACTED]

[REDACTED] The obligor failed to present the alien, and the alien failed to appear as required. On January 27, 2006, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel asserts that she represents both the obligor and the alien, and that on November 9, 2005, she sent a letter requesting a postponement of the interview because she would not be available to appear on November 15, 2005 due to medical reasons. Counsel argues that neither she nor the obligor received any response regarding her request for postponement.

According to the United States Postal Service website, counsel's letter was delivered to the Los Angeles District Office at 2:57 p.m. on November 15, 2005¹; over five hours after the alien's scheduled interview. Furthermore, counsel's medical reasons have no bearing on the obligor's duty to produce the alien as demanded. The obligor and the alien could have appeared as scheduled and requested a new interview date.

The obligor is bound by the terms of the Form I-352 to which it obligated itself. It is noted that the terms of the Form I-352 for bonds conditioned upon the delivery of the alien establish the following condition: "the obligor shall cause the alien to be produced or to produce himself/herself . . . upon each and every written request until *exclusion/deportation/removal proceedings* . . . are finally terminated." (Emphasis added). Thus, the obligor is bound to deliver the alien by the express terms of the bond until either exclusion, deportation or removal proceedings are finally terminated, or one of the other conditions occurs.

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, as specified in the appearance notice, 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;

¹ See <http://trkcnfrm1.smi.usps.com/PTSIInternetWeb/InerLabelInquiry.do>, accessed on December 15, 2006.

(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 October 13, 2005 was sent to the obligor at [REDACTED] via certified mail. This notice demanded that the obligor produce the bonded alien on November 15, 2005. While the recipient failed to indicate the date that the notice was received, the receipt was post-marked by the postal service, and it was subsequently received at the ICE office on November 1, 2005. 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.