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U.S. Citizenship
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FILE: [REDACTED] Office: CHICAGO Date: DEC 18 2008

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:
[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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. §103.5(a)(1)(i).

Mai Plerson
John F. Grissom, Acting Chief
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 May 6, 2008, 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 June 6, 2008, was sent to the 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 10:00 a.m. on June 27, 2008, at 101 W. Congress Pkwy, 4th Floor, Chicago, IL 60605. The obligor failed to present the alien, and the alien failed to appear as required. On August 5, 2008, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel asserts that the bonded alien was ordered removed *in absentia* on May 28, 2008, and that a motion to reopen was filed on June 9, 2008, and a stay of deportation was entered.

The record reflects that a removal hearing was held on May 28, 2008 and the alien was ordered removed *in absentia*. On June 9, 2008, the alien filed a motion to reopen before the immigration court, which was denied on July 28, 2008. On August 25, 2008, the alien filed an appeal of the immigration judge's decision to the Board of Immigration Appeals, which is currently pending.

Bond proceedings are separate and apart from any other proceedings. Removal proceedings are between the United States government and an alien with a questionable right to remain in the United States. A delivery bond is a contract between the ICE and the obligor, where in consideration for obtaining the alien's release from custody, the obligor agrees to produce the alien on demand until the obligation to do so terminates under grounds specified in the contract.

The field office director properly exercised his authority by directing the obligor to produce the bonded alien. The obligor is not relieved of her 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 filed a motion to reopen. While the filing of a timely motion stays removal, the field office director may call the alien in for a custodial determination at any time.

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.

On appeal, counsel asserts that the obligor was unaware of the requirement to deliver the alien as she never received the Form I-340 and, therefore, the obligor is requesting that the bond be reinstated.

The evidence of record indicates that the Notice to Deliver Alien dated June 6, 2008 was sent to the obligor at [REDACTED], Niles, IL 60714 via certified mail. This notice demanded that the obligor produce the bonded alien on July 27, 2008. The domestic return receipt indicates the notice to produce the bonded alien was received on June 23, 2008. 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 ensure 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.