



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE: [Redacted] Office: SEATTLE Date: JAN 09 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.

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, Seattle, Washington, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The record indicates that May 11, 2006, 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 November 20, 2006, was addressed 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 9:00 a.m. on January 12, 2007, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On January 15, 2007, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel asserts that the obligor did not receive the Form I-340 because ICE mailed the form to the obligor's physical address instead of her mailing address. Counsel asserts that the obligor informed ICE that the United States Postal Service did not provide street delivery in her neighborhood. Counsel asserts that the obligor attempted to give ICE her mailing address; however, the ICE officer was only interested in her physical address for purposes of completing the Form I-305.

The obligor, in a sworn declaration, asserted that there is no street delivery to her address and she has maintained a post office box for several years. A telephone call to the post office in Granger, Washington has confirmed that there is no street delivery to the address of the obligor.

The record reflects that the bonded alien filed a motion to reopen removal proceedings before the immigration court. On July 31, 2007, ICE filed a non-opposition to the motion. This decision was based on the alien alleging he did not receive the notice of hearing because he uses a post office box and does not receive mail at his physical address. On August 2, 2007, a hearing was held in which the immigration judge ordered the alien's motion to reopen removal proceedings be granted.

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 November 20, 2006 was addressed to the obligor at [REDACTED]. This notice demanded that the obligor produce the bonded alien on January 12, 2007. The notice, however, was returned by the postal service as "undeliverable as addressed." Consequently, the record fails to establish that the field office director properly served notice on the obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).

Because the record fails to establish proper service of the Form I-340 on the obligor, the appeal will be sustained. The field office director's decision declaring the bond breached will be rescinded and the bond will be continued in full force and effect.

Finally, it is noted that on August 22, 2007, an immigration judge issued an order granting the alien voluntary departure in lieu of removal on or before August 29, 2007. No satisfactory evidence has been introduced into the record to establish the alien made a timely departure.

ORDER: The appeal is sustained. The field office director's decision declaring the bond breached is rescinded and the bond is continued in full force and effect.