

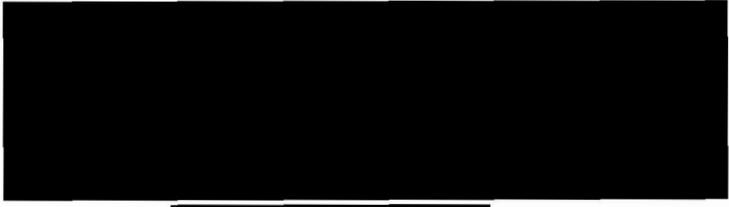
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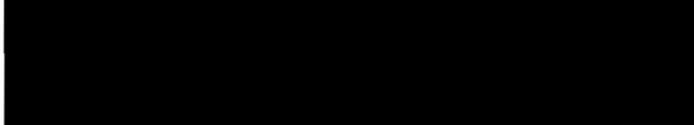


U.S. Citizenship
and Immigration
Services

GA



FILE:  Office: KANSAS CITY, MO (STL) Date: JUL 08 2008

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: 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 delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, Kansas City, Missouri, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record indicates that on October 6, 2006, the obligor posted a \$15,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated February 20, 2008, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's presence for an interview before an officer of Immigration and Customs Enforcement (ICE) at 9:00 a.m. on March 5, 2008, at 1222 Spruce Street, Room 1.100, St. Louis, MO 63103. The obligor failed to present the alien, and the alien failed to appear as required. On March 6, 2008, the field office director informed the obligor that the delivery bond had been breached.

The record indicates that the field office director issued the Notice-Immigration Bond Breached on March 6, 2008. It is noted that the field office director properly gave notice to the obligor that it had 33 days to file the appeal. 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 its appeal to the AAO, which was received on April 15, 2008. The appeal is not considered properly received until it is received by the district office, which rendered the unfavorable decision. 8 C.F.R. § 103.3(a)(1)(2)(i). The appeal was properly received at the respective district office on April 22, 2008, 47 after the decision was issued. Accordingly, the appeal was untimely filed.

Neither the Immigration and Nationality Act nor the pertinent regulations grant the AAO authority to extend the 33-day time limit for filing an appeal. 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.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Here, the untimely appeal does not meet the requirements of a motion to reopen or a motion to reconsider. Therefore, there is no requirement to treat the appeal as a motion under 8 C.F.R. § 103.3(a)(2)(v)(B)(2).

As the appeal was untimely filed and does not qualify as a motion, the appeal must be rejected.

ORDER: The appeal is rejected.