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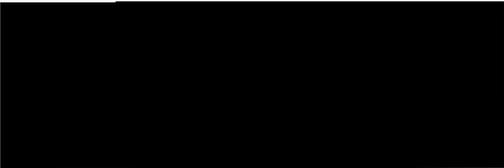
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



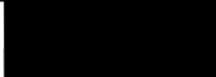
U.S. Citizenship
and Immigration
Services

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FILE:



Office: SAN ANTONIO

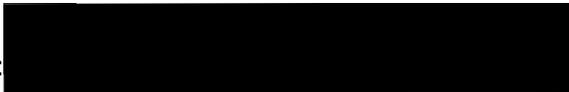
Date:

OCT 30 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.

A handwritten signature in cursive script that reads "Maia pluson".

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, San Antonio, Texas, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record indicates that on December 13, 2006, the obligor posted a \$6,500 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated April 2, 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 May 2, 2008, at 8940 Fourwinds Drive, San Antonio, TX 78239. The obligor failed to present the alien, and the alien failed to appear as required. On May 5, 2008, the field office director informed the obligor that the delivery bond had been breached.

The regulation at 8 C.F.R. § 292.4(a) provides, in part, that “[a] notice of appearance entered in application or petition proceedings must be signed by the obligor to authorize representation in order for the appearance to be recognized by Immigration and Custom Enforcement.”

In the instant case, there is no Form G-28, Entry of Appearance as Attorney or Representative, on file. As such, the attorney, [REDACTED], has no standing in this proceeding.

Accordingly, pursuant to 8 C.F.R. § 292.4(a), the AAO sought to clarify whether [REDACTED] is authorized to represent the obligor in this proceeding. On September 25, 2008, the AAO sent a fax to counsel's office requesting that a properly executed Form G-28 be submitted. Counsel, in response, requested an extension until October 9, 2008. To date, however, a properly executed Form G-28 has not been submitted to the AAO. As there is nothing in the record that demonstrates that [REDACTED] is the obligor's representative and therefore acting on behalf of a recognized party, the decision will be furnished only to the obligor.

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 of 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 date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the field office director issued the Notice-Immigration Bond Breached on May 5, 2008. 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 field office, which rendered the unfavorable decision. The appeal was properly received at the respective field office on June 12, 2008, 38 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.