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U.S. Citizenship
and Immigration
Services



GS

APR 11 2015

FILE:



Office: LOS ANGELES

Date:

IN RE:

Obligor:

Bonded Alien:



IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration and Nationality Act, 8 U.S.C. § 1229c

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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The voluntary departure 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 sustained.

The record indicates that on May 28, 2003, the obligor posted a \$500.00 bond conditioned for the voluntary departure of the above referenced alien. An order of the immigration judge (IJ) dated May 23, 2003, was issued granting the alien voluntary departure in lieu of removal on or before July 22, 2003. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On September 16, 2004, the BIA affirmed, without opinion the IJ's decision, and granted the alien voluntary departure within 30 days from the date of the order. On December 20, 2004, the field office director concluded the bond had been breached.

On appeal, the obligor asserts that the Ninth Circuit Court of Appeals has issued a temporary stay of removal.

The record reflects that on October 14, 2004, the alien filed a motion to stay removal and a petition to review before the Ninth Circuit Court of Appeals. On December 20, 2004, the Ninth Circuit Court of Appeals indicated in its order that the temporary stay of removal shall continue in effect pending issuance of the mandate.

Section 242(b)(3)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1252(b)(3)(B), provides that service of the petition for review does not stay the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

As previously mentioned, the Ninth Circuit Court of Appeals issued a continuance of a stay of removal on December 20, 2004. As the voluntary departure order was stayed, the breach of the voluntary departure bond is not valid. The bonded alien is allowed to remain in the United States under the condition of the voluntary departure bond until the court orders otherwise.

Therefore, the field office director's decision to breach the bond will be withdrawn, the appeal will be sustained, and the bond will be continued.

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