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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
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U.S. Citizenship
and Immigration
Services

CS

APR 11 2005

[Redacted]

FILE: [Redacted] Office: LOS ANGELES Date:

IN RE: Obligor: [Redacted]
Bonded Alien: [Redacted]

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

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.

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 September 13, 2002, the obligor posted a \$500.00 bond conditioned for her voluntary departure. An order of the immigration judge (IJ) dated September 13, 2002, was issued granting the alien voluntary departure in lieu of removal on or before October 15, 2002. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On February 9, 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. The alien filed a petition for review before the 9th Circuit Court of Appeals. On May 19, 2004, the 9th Circuit Court of Appeals denied the alien's petition for review. The Court stated that the temporary stay of removal shall continue in effect pending issuance of the mandate. On May 27, 2004, the field office director concluded the bond had been breached.

On appeal, counsel asserts that a stay of removal was granted by the U.S. Court of Appeals.

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 9th Circuit Court of Appeals continued a stay of removal on May 19, 2004, eight days earlier than the stipulated breach date. 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's mandate is issued, which is typically issued 52 days after its decision.

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.