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FILE:



Office: LOS ANGELES

Date: **AUG 17 2005**

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.

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 dismissed.

The record indicates that on November 17, 2003, the obligor posted a \$500.00 bond conditioned for her voluntary departure. An order of the immigration judge (IJ) dated November 12, 2003 was issued granting the alien voluntary departure in lieu of removal on or before January 12, 2004. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On February 15, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 30 days from the date of the order. On April 19, 2005, the field office director concluded the bond had been breached.

On appeal, the obligor asserts that she has a petition for review currently pending before the Ninth Circuit Court of Appeals, and will be filing a motion to reopen before the BIA.

An appeal to the federal court of appeals does not stay the execution of the removal order unless the court orders otherwise. Section 242(b)(3)(B) of the Immigration and Nationality Act (the Act) 8 U.S.C. § 1252(b)(3)(B). There is no evidence of record to indicate that the Ninth Circuit Court of Appeals has stayed the bonded alien's removal.

The record does not reflect that a motion to reopen has been filed before the BIA. Nevertheless, 8 C.F.R. § 1003.2(f) states in part that a filing of a motion to reopen or a motion to reconsider shall not stay the execution of any decision made in the case. Execution of such decision shall proceed unless a stay of execution is specifically granted by the BIA, the IJ, or an authorized Immigration and Customs Enforcement (ICE) officer. The record does not reflect that a stay of deportation was granted.

The alien was granted 30 days from the BIA's order of October 11, 2002 to leave the United States. The alien did not leave as required on or before November 10, 2002. The director's decision of April 19, 2005 declaring the bond breach is valid.

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the field office director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for ICE to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field office director will not be disturbed.

**ORDER:** The appeal is dismissed.