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U.S. Citizenship
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Services

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FILE:



Office: LOS ANGELES

Date: JUN 14 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.

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 dismissed.

The record indicates that on October 28, 2003, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated October 23, 2003, was issued granting the alien voluntary departure in lieu of removal on or before December 23, 2003. The bonded alien filed an appeal and a motion before the Board of Immigration Appeals (BIA). On August 24, 2004, the BIA dismissed the appeal and denied the motion and granted the alien voluntary departure within 30 days from the date of the order. On September 20, 2004, the alien filed a petition for review and a motion to stay before the Ninth Circuit Court of Appeals. On November 10, 2004, the field office director concluded the bond had been breached.

On appeal, the alien asserts that he has an appeal currently pending before the Ninth Circuit Court of Appeals.

The record reflects that on November 24, 2004, the Ninth Circuit Court of Appeals issued a temporary stay of removal.

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). The underlying bond was breached by the field office director prior to date the Ninth Circuit Court of Appeal issued its temporary stay of removal. As such, the field office director's decision of November 10, 2004 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.