

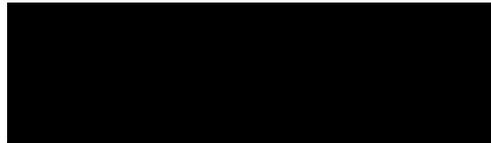
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: MIAMI

Date: JUN 20 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.

A handwritten signature in black ink that reads "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, Miami, Florida, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on July 19, 2002, the obligor posted a \$500.00 bond conditioned for her voluntary departure. An order of the immigration judge (IJ) dated July 12, 2002, was issued granting the alien voluntary departure in lieu of removal on or before September 10, 2002. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On December 22, 2003, the BIA dismissed the appeal, and granted the alien voluntary departure within 30 days from the date of the order. On March 16, 2004, the field office director concluded the bond had been breached.

On appeal, the aliens asserts, "I was misrepresented in both cases." The alien requests that her case be reconsidered.

If the alien wished to claim ineffective assistance of counsel as an exceptional circumstance, she should have followed the procedure explained in *Matter of Lozada*, 19 I&N Dec. 637, 693 (BIA 1988). Any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not.

It is noted that in her appeal before the BIA, the alien put forth the same argument. As previously noted, the BIA upheld the IJ's decision.

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 Immigration and Customs Enforcement 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.