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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE: 

Office: LOS ANGELES

Date: MAR 24 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 March 9, 2004, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated March 2, 2004, was issued granting the alien voluntary departure in lieu of removal on or before May 3, 2004. On May 21, 2004, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On June 9, 2004, the BIA dismissed the appeal as untimely. On August 5, 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 BIA.

As previously mentioned, the alien's appeal was dismissed by the BIA on June 9, 2004. The record reflects that the alien filed a motion to reopen before the BIA. On September 8, 2004, the case was returned to the IJ, as it was no longer within the BIA's jurisdiction.

The regulations at 8 C.F.R. § 1003.2(f) and § 1003.23(b)(1)(v) provide in part that filing 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 officer of Immigration and Customs Enforcement (ICE). The record does not reflect that a stay of deportation was granted.

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.