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U.S. Citizenship
and Immigration
Services

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59

[Redacted]

FILE:

[Redacted]

Office: BUFFALO

Date:

MAY 02 2005

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.

Robert P. Wiemann

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, Buffalo, New York, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on January 31, 2003, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated January 29, 2003, was issued granting the alien voluntary departure in lieu of removal on or before February 28, 2003. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On March 16, 2004, the BIA dismissed the alien's appeal, and granted the alien voluntary departure within 30 days from the date of the order. On March 3, 2005, the field office director concluded the bond had been breached.

On appeal, counsel asserts that the bonded alien has a pending petition before the Second Circuit Court of Appeals.

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 Second Circuit Court of Appeals has stayed the bonded alien's removal.

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.