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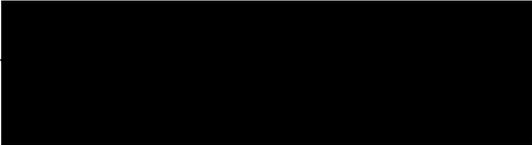
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

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U.S. Citizenship
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Services

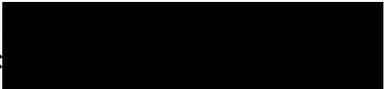
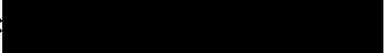
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FILE: 

Office: LOS ANGELES

Date: **NOV 07 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

S 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 May 27, 2003, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated May 23, 2003, was issued granting the alien voluntary departure in lieu of removal on or before July 22, 2003. On October 22, 2003, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On November 2, 2004, the BIA dismissed the appeal for lack of jurisdiction. On November 15, 2004, the alien filed a motion to reopen before the BIA. On December 29, 2004, the BIA denied the motion to reopen for lack of jurisdiction. On May 4, 2005, the field office director concluded the bond had been breached.

On appeal, the alien asserts that he has a petition for review pending before the Ninth Circuit Court of Appeals and a motion to reopen pending before the BIA.

The record reflects that the alien filed a motion to reopen before the IJ, which was denied on June 27, 2005. On July 27, 2005, the alien filed an appeal of the IJ's motion to reopen decision before the BIA.

A motion to reopen filed before the BIA does not automatically stay the execution of a removal order. 8 C.F.R. § 1003.2(f). 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 either the BIA or the Ninth 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.