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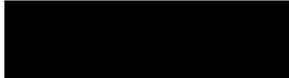
U.S. Citizenship
and Immigration
Services

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prevent clearly unwarranted
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G73

FILE:



Office: LOS ANGELES

Date: **NOV 11 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 September 15, 1999, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated June 8, 1999, was issued granting the alien voluntary departure in lieu of removal on or before August 7, 1999. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On July 31, 2002, the BIA affirmed, without opinion, the IJ's decision, and granted the alien voluntary departure within 30 days from the date of the order. The alien filed a petition for review before the Ninth Circuit Court of Appeals. On January 15, 2004, the Ninth Circuit Court of Appeals dismissed in part and denied in part the petition for review. On June 28, 2005, the field office director concluded the bond had been breached.

On appeal, the alien asserts that he did not depart the United States because at the time he had an appeal pending before the BIA. The alien further asserts that prior to the BIA's decision, he applied for Temporary Resident Status under section 245A of the Immigration and Nationality Act (the Act) and was subsequently approved on May 6, 2005.

The applicant's assertion is without merit, as the alien has not been granted temporary resident status. Citizenship and Immigration Services records reflect that the alien filed an Application for Employment Authorization pursuant to 8 C.F.R. § 274a.12(c)(22) and said application was granted on May 6, 2005.

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

The alien was granted 30 days from the BIA's order of July 31, 2002 to leave the United States. The alien did not leave as required on or before August 30, 2002. The field office director's decision of June 28, 2005 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 Immigration and Customs Enforcement (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.