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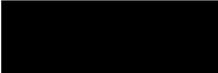


**U.S. Citizenship  
and Immigration  
Services**

*GA3*



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.

*Marif 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 (AAO) on appeal. The appeal will be rejected.

The record indicates that on July 22, 2002, the obligor posted a \$500.00 bond conditioned for the voluntary departure of the above referenced alien. An order of the immigration judge (IJ) dated July 16, 2002, was issued granting the alien voluntary departure in lieu of removal on or before September 14, 2002. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On January 28, 2004, the BIA dismissed the appeal, and granted the alien voluntary departure within 30 days from the date of the order. On November 3, 2004, the field office director concluded the bond had been breached.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the field office director issued the Notice-Immigration Bond Breached on November 3, 2004. It is noted that the field office director properly gave notice to the obligor that it had 33 days to file the appeal. The Form I-290B, Notice of Appeal is very clear in indicating that the appeal is not to be sent directly to the AAO. The obligor, nevertheless, sent his appeal to the AAO. The appeal is not considered properly received until it is received by the district office, which rendered the unfavorable decision. The appeal was properly received at the respective district office on December 23, 2004, or 50 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the field office director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The field office director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

As the appeal was untimely filed, the appeal must be rejected.

**ORDER:** The appeal is rejected.