

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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



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

PUBLIC COPY



G3

FILE:  Office: HAWAII (AGA) Date:

IN RE: Obligor:
Bonded Alien: 

MAY 18 2006

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.

A handwritten signature in cursive script, appearing to read "Maig Jensen".

 Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Honolulu, Hawaii, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The record indicates that on May 11, 2004, the obligor posted a \$1,500.00 bond conditioned for the voluntary departure of the above referenced alien. On May 11, 2004, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before July 12, 2004. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On August 3, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On November 22, 2005, 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 22, 2005. It is noted that the field office director properly gave notice to the obligor that it had 33 days to file the appeal. The appeal was dated January 5, 2006, and it was received by Immigration and Customs Enforcement (ICE) on January 6, 2006, or 45 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.

Furthermore, the appeal has been filed by the bonded alien's attorney. Only an affected party, a person or entity with legal standing may file an appeal of an unfavorable decision. The alien and the attorney are without standing in this proceeding. 8 C.F.R. § 103.3(a)(1)(iii)(B).

An immigration bond is a contract between ICE and the obligor. The obligor or his attorney-in-fact is the proper party to appeal the ICE decision to breach the bond. See *Matter of Insurance Company of North America*, 17 I&N Dec. 251 (Act. Reg. Comm. 1978).

The regulations provide that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed.

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

ORDER: The appeal is rejected.