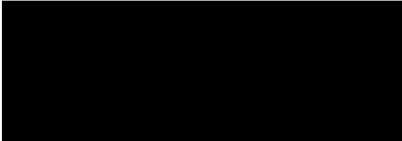


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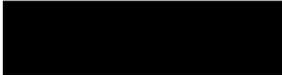
U.S. Citizenship  
and Immigration  
Services

PUBLIC COPY



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FILE:



Office: HOUSTON

Date:

AUG 07 2001

IN RE:

Obligor:

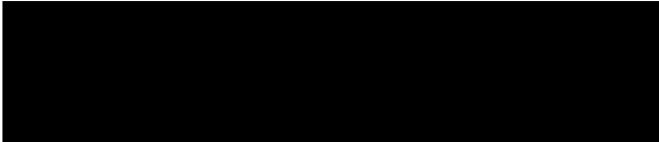
Bonded Alien:



IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the  
Immigration and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR:



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, Chief  
Administrative Appeals Office

**DISCUSSION:** The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on May 26, 2004, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On May 19, 2004, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before July 18, 2004. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On November 3, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. The alien filed a petition review before the United States Circuit Court for the Fifth Circuit (Fifth Circuit). On January 12, 2006, the alien filed an Application for Stay of Deportation or Removal, which was denied by the field office director on January 17, 2006. On October 18, 2006, the field office director concluded the bond had been breached.

On appeal, counsel states that a Form I-140, Immigrant Petition for Alien Worker, was filed on behalf of the obligor and is currently pending.

Bond proceedings are separate and apart from other proceedings and therefore the filing of a Form I-140 has no bearing in this matter.

On appeal, counsel asserts that the obligor filed an appeal on March 8, 2006 before the Fifth Circuit that is currently pending.

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 Fifth Circuit had stayed the bonded alien's removal. It is noted that on November 29, 2006, the Fifth Circuit denied the petition for review and issued its mandate on January 23, 2007.

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.