

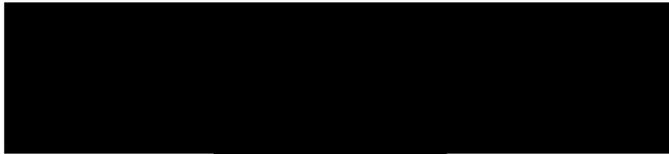
identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY



63

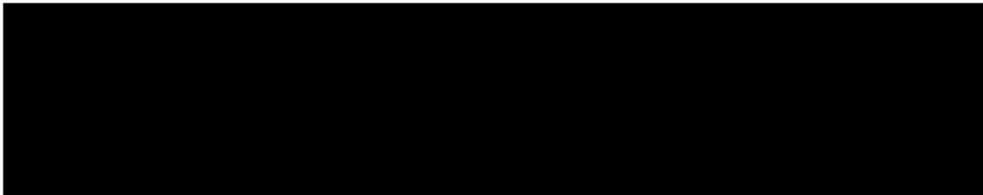
JAN 11 2007

FILE: [Redacted] Office: PHOENIX Date:

IN RE: Obligor: [Redacted]
Bonded Alien: [Redacted]

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, Phoenix, Arizona, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The record indicates that on May 4, 2006, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On May 3, 2006, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before July 3, 2006. On June 1, 2006, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On August 18, 2006, the field office director concluded the bond had been breached on July 3, 2006.

On appeal, counsel argues that the alien has not violated any terms of his voluntary departure bond as he has filed a timely appeal before the BIA that is still pending.

The regulation at 8 C.F.R. § 1003.38(a), states, in pertinent part, that an appeal shall be filed directly with the BIA within 30 days after the mailing of the IJ's written decision. Further, 8 C.F.R. § 1003.6(a) provides that a decision shall not be executed while an appeal is pending before the BIA. In the instant case, the alien's appeal was pending at the time the director deemed the bond had been breached. As such, the director's conclusion that the bond had been breached on July 3, 2006 is not valid.

ORDER: The appeal is sustained. The field office director's decision declaring the bond breached will be withdrawn and the bond continued in full force and effect.