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U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES

Date:

JAN 17 2007

IN RE:

Obligor:  
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: 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 "Mae Johnson".

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, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The record indicates that on March 9, 2004, the obligor posted a \$500.00 bond conditioned for the voluntary departure of the above referenced alien. On March 5, 2004, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal. The 60-day period for voluntary departure was to end on May 5, 2004. On March 8, 2004, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On May 25, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 30 days from the date of the order. On June 14, 2005, the alien filed a petition for review and a motion to stay before the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit). On October 13, 2005, the Ninth Circuit dismissed the petition for review. On June 22, 2006, the field office director concluded the bond had been breached on June 24, 2005.

On appeal, the obligor asserted that a brief and/or evidence would be submitted to the AAO within 30 days. To date, however, no further correspondence has been presented by the obligor.

On appeal, the obligor asserted the bond was not been breached on June 24, 2005 as the Ninth Circuit did not issued its decision until October 13, 2005, and the bonded alien was still awaiting the issuance of the mandate.

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).

Pursuant to General Order 6.4(c)(1) of the United States Court of Appeals for the Ninth Circuit, upon the filing of a motion or request for stay of removal or deportation, the order or removal or deportation is temporarily stayed until further order of the court.

The General Order is applicable to this case, as the applicant filed a timely motion for stay of removal. Further, the timely filing of a petition for review stays the voluntary departure period and preserves the number of remaining days within which to depart voluntarily. *See Desta v. Ashcroft*, 365 F.3d 741, 743-744 (9<sup>th</sup> Cir. 2004). As the voluntary departure order was stayed, the breach of the voluntary departure bond on June 24, 2005 is not valid. Therefore, the field office director's decision to breach the bond will be withdrawn, the appeal will be sustained, and the bond will be continued.

It is noted that the record reflects that the mandate was issued on November 4, 2005.

**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.