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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
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U.S. Citizenship
and Immigration
Services

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GB

FILE:

Office: LOS ANGELES

Date:

JUN 15 2007

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.

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 on appeal. The appeal will be dismissed.

The record indicates that on September 26, 2006, the obligor posted a \$500.00 bond conditioned for her voluntary departure. On September 26, 2006, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before November 27, 2006. On November 3, 2006, the alien filed a motion to reopen before the immigration court. On December 1, 2006, the field office director concluded the bond had been breached on November 27, 2006.

On appeal, the obligor asserts that she had filed an appeal before the Board of Immigration Appeals (BIA) that was dismissed. The obligor also asserts that she filed a stay of removal and a petition for review that is currently pending before the United States Court of Appeals for the Ninth Circuit (Ninth Circuit).

It is noted that the alien's motion to reopen was denied by the IJ on January 8, 2007.

The BIA inquiry system does not contain any information regarding the alien's purported filing of an appeal. The decision of the IJ becomes final upon expiration of the time to appeal if no appeal is taken. 8 C.F.R. § 1003.39.

In addition, there is no evidence in the Public Access to Court Electronic Records (PACER), reflecting that a petition for review or a stay of removal had been filed before the Ninth Circuit. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The Ninth Circuit ruling in *Azarte v. Ashcroft*, 394 F.3d 1278 (9th Cir. 2005) states, in pertinent part, that where a timely motion to reopen has been filed and in which a stay of voluntary departure has been requested, the voluntary departure period is tolled during the time that the BIA is considering the motion.

The Ninth Circuit ruling is not applicable to this case as there is no evidence the alien had filed a request for a stay of voluntary departure before the BIA. The field office director's decision of December 1, 2006, declaring the bond breached on November 27, 2006 is valid.

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.