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U.S. Citizenship
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Services

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FILE:

Office: LOS ANGELES

Date:

MAY 31 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 (AAO) on appeal. The appeal will be dismissed.

The record indicates that on November 21, 2003, the obligor posted a \$500.00 bond conditioned for the voluntary departure of above referenced alien. On November 17, 2003, 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 or before January 16, 2004. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On April 14, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 30 days from the date of the order. On May 2, 2005, the alien filed a petition for review before the United States Court of Appeals for the Ninth Circuit (Ninth Circuit). On March 10, 2006, the petition for review was dismissed in part and denied in part by the Ninth Circuit. On June 22, 2006, the field office director concluded the bond had been breached on May 14, 2005.

On appeal, the obligor asserts that the bonded alien filed a petition for review and a motion for stay of removal that is currently pending before the Ninth Circuit.

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 of removal or deportation is temporarily stayed until further order of the court.

Pursuant to General Order 6.4(c)(7) of the United States Court of Appeals for the Ninth Circuit, if a petition for review is filed without a request for a stay of deportation or removal, a brief schedule shall be established upon the filing of the petition.

The record contains a printout from The Public Access to Court Electronic Records (PACER), which indicates that a brief schedule had been set. The General Order 6.4(c)(1) is not applicable to this case, as the PACER printout does not indicate that a request for stay of removal had been filed by the bonded alien.

The alien was granted 30 days from the BIA's order of April 14, 2005 to leave the United States. The alien did not leave as required on or before May 14, 2005. The field office director's decision of June 22, 2006 declaring the bond breached on May 14, 2005 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.

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.