

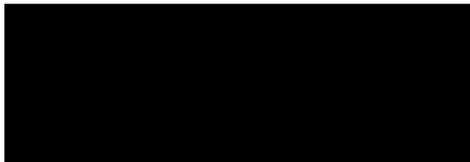
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



G3

FILE:



Office: PHILADELPHIA

Date:

SEP 24 2007

IN RE:

Obligor:

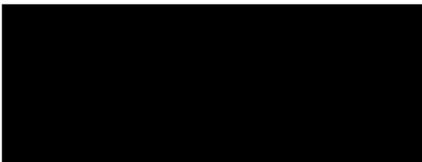


Bonded Alien:

IMMIGRATION BOND:

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

ON BEHALF OF OBLIGOR:



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 black ink, appearing to read "Robert P. Wiemann".

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, Philadelphia, Pennsylvania, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on August 2, 2004, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On July 28, 2004, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before September 27, 2004. On August 17, 2004, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On December 27, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On April 11, 2006, the alien filed a motion to reopen before the BIA, which was denied on July 20, 2006. The alien subsequently filed a petition for review before the United States Court of Appeals for the Third Circuit (Third Circuit). On April 25, 2007, the field office director concluded the bond had been breached.

On appeal, counsel asserts that the alien has an appeal pending before the Third Circuit and recently, the alien has been accepted to apply for permanent residence through the Diversity Visa Lottery.¹ Counsel asserted that a brief would be submitted to the AAO within 30 days. However, more than four months later, no brief has been presented by counsel.

Bond proceedings are separate and distinct from any other proceeding and, therefore, the Diversity Immigrant Visa program has no bearing in this matter. In addition, 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 Third Circuit has stayed the bonded alien's removal.

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.

¹ It is noted that counsel submitted three separate Notices of Appeal, Form I-290B, but submitted a single fee of \$385.00 for the bonded alien and two other bonded aliens. Separate alien registration numbers in bond proceedings are issued with separate decisions and, therefore, are not covered under one decision.