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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

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[Redacted]

FILE:

[Redacted]

Office: DALLAS

Date:

JUL 08 2008

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:

[Redacted]

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

The record indicates that on March 8, 2006, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before May 8, 2006. On March 13, 2006, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On March 20, 2006, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On March 21, 2007, the BIA dismissed the appeal, but remanded the case for consideration of the alien's application for cancellation of removal for nonpermanent residents. On October 24, 2007, the IJ issued an order denying the alien's application for cancellation of removal. In November 2007, the alien filed a motion to reopen before the immigration court, which was denied on January 9, 2008. On January 22, 2008, the alien filed a second motion to reopen before the immigration court. On February 29, 2008, the field office director concluded that the bond had been breached on May 8, 2006.

On appeal, counsel asserts that the alien's second motion to reopen was granted by the IJ on March 25, 2008, and that a master hearing was scheduled for May 28, 2008. Counsel requests that the breach be suspended in order that the removal proceedings before the IJ may continue.

The regulation at 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 filed timely and was pending at the time director deemed the bond had been breached. As such, the field office director's decision declaring the bond had been breached on May 8, 2006 is not valid.

It is noted that the record reflects that on March 25, 2008, the IJ granted the second motion to reopen filed by the alien on January 22, 2008. However, on June 11, 2008, the immigration court vacated the motion to reopen granted on March 25, 2008, and reinstated the denial order issued on October 24, 2007.

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 The field office director's decision declaring the bond breached will be withdrawn and the bond is continued in full force and effect.