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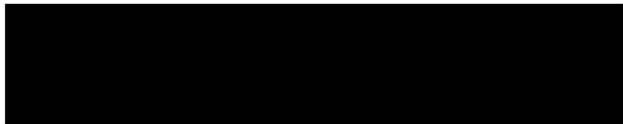


Office: COW Date:

JUN 27 2008

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.

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 Director, Headquarters, Bonds, Immigration and Customs Enforcement (ICE), and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that on October 20, 2003, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before December 19, 2003. On October 24, 2003, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On November 17, 2003, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On October 7, 2004, the BIA affirmed, without opinion, the IJ's decision and granted the alien voluntary departure within 30 days from the date of the order. On November 1, 2004, the alien filed a petition for review before the United States Circuit Court of Appeals for the Ninth Circuit (Ninth Circuit). On May 15, 2007, the Ninth Circuit dismissed in part and denied in part the petition for review and issued its mandate on June 6, 2007. On February 11, 2008, the field office director concluded that the bond had been breached.

On appeal, the alien asserts that he has not received the mandate issued by the Ninth Circuit. The alien requested an extension of more than 30 days in which to submit additional evidence to the AAO. However, more than 90 days later, no additional evidence has been presented by the alien.

The record reflects that the Ninth Circuit issued its mandate on June 6, 2007.

The BIA's decision of the alien's appeal granted the alien a renewed voluntary departure period of 30 days was issued on October 7, 2004. The alien filed a petition for review on November 1, 2004, after 25 days had passed. The petition for review had the effect of tolling the remaining voluntary departure period of five (5) days. See *Desta v. Ashcroft*, 365 F.3d 741, 743-744 (9th Cir. 2004). Although the alien claims on appeal that he has "yet to receive [the] mandate," there is no provision that would extend the period for voluntary departure if the alien were to establish failure to receive the mandate. The Ninth Circuit has determined only that "stays of voluntary departure and removal will expire upon *issuance* of the mandate." *Id.* at 750 (emphasis added). As the mandate was issued on June 6, 2007, that is the date that the period of voluntary departure resumed.

In calculating the remaining period of voluntary departure, the AAO relies on *Lagandaon v. Ashcroft*, 383 F.3d 983, 986 (9th Cir. 2004), in which the Ninth Circuit found that "the period beginning May 14, 1987, and ending May 13, 1997, is 'a continuous period of not less than 10 years.'" In the *Lagandaon* decision, the Ninth Circuit observed that the period from January 1 to December 31 is recognized as a year, and that a period of continuous presence ends "when" a Notice to Appear is served. The Ninth Circuit also cited *Griffith v. Bogert*, 59 U.S. 158, 159 (1855), in which the United States Supreme Court held that the 18-month period that began on November 1, 1819, ended on April 30, 1821, rather than May 1 of the latter year. By the same logic, the period within which to voluntarily depart resumed on the day that the mandate was issued June 6, 2007. The period of June 6, 2007 through June 10, 2007 amounts to five (5) days. We note that the present matter arose within the jurisdiction of the Ninth Circuit.

Accordingly, the alien's 30-day period of voluntary departure ended on June 10, 2007. The director's decision of February 11, 2008, declaring the bond breached 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 ICE 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.