



U.S. Citizenship
and Immigration
Services

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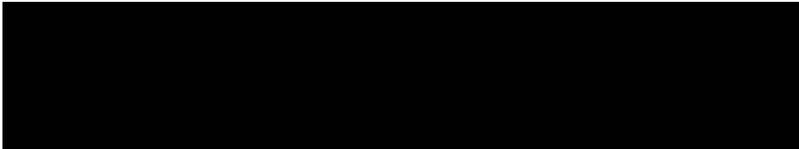


FILE: [Redacted] Office: PHOENIX (REN) Date: **MAR 05 2008**

IN RE: Obligor: [Redacted]
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:



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

The record indicates that on August 22, 2005, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before October 21, 2005. On August 29, 2005, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On September 19, 2005, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On August 4, 2006, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On October 2, 2006, the alien filed a motion to reopen before the BIA. On February 12, 2007, the BIA reopened *sua sponte* and vacated its decision of August 4, 2006. On February 12, 2007, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On April 16, 2007, the alien filed a second motion to reopen and a request for stay of removal before the BIA. On July 11, 2007, the BIA denied the motion to reopen and request for stay of removal. On October 15, 2007, the field office director concluded that the bond had been breached on September 17, 2007.

On appeal, counsel initially asserted that the alien was not aware of his voluntary departure deadline as he was not informed by his counsel that the BIA had issued a final decision in his removal proceedings. Counsel requested 30 days in which to supplement the appeal. Counsel subsequently submitted additional documentation, including a brief in which he asserts that the alien has filed a motion to reopen that is currently pending before the BIA.

Counsel's assertions that the alien was not informed by his counsel of the BIA's final decision are without merit. The record reflects that the applicant represented himself at his removal proceedings. The BIA's decision of July 11, 2007, was sent to the alien's address of record.

The record reflects that on December 12, 2007, the alien filed a motion to reopen and a stay of removal before the BIA. However, on January 3, 2008, counsel withdrew the motion to reopen and the stay of removal. On January 30, 2008, the BIA affirmed the withdrawal of the motion and the stay of removal and returned the record to the immigration court without further action. The director's decision of October 15, 2007, declaring the bond breach on September 17, 2007, 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 that 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.