



U.S. Citizenship
and Immigration
Services

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FILE:



Office: LOS ANGELES

Date:

MAR 28 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:



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 on appeal. The appeal will be sustained.

The record indicates that on April 9, 2004, the obligor posted a \$500.00 bond conditioned for her voluntary departure. On April 5, 2004, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before June 4, 2004. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On June 10, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On July 8, 2005, the alien filed a petition for review before the United States Court of Appeals for the Ninth Circuit (Ninth Circuit). On August 9, 2005, the alien filed a motion for stay of removal before the Ninth Circuit. On March 9, 2006, the field office director concluded the bond had been breached on August 9, 2005.

On appeal, counsel asserts that the bonded alien did not breach her bond as her appeal before the Ninth Circuit is still pending.

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, 8 U.S.C. § 1252(b)(3)(B).

Pursuant to General Order 6.4(c)(1) of 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.

The General Order is applicable to this case, as the applicant filed a timely motion for stay of removal. Further, the timely filing of a petition for review stays the voluntary departure period and preserves the number of remaining days within which to depart voluntarily. *See Desta v. Ashcroft*, 365 F.3d 741, 743-744 (9th Cir. 2004). As the voluntary departure order was stayed, the breach of the voluntary departure bond on August 9, 2005 is not valid. Therefore, the field office director's decision to breach the bond will be withdrawn, the appeal will be sustained, and the bond will be continued.

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 The field office director's decision declaring the bond breached will be withdrawn and the bond continued in full force and effect.