

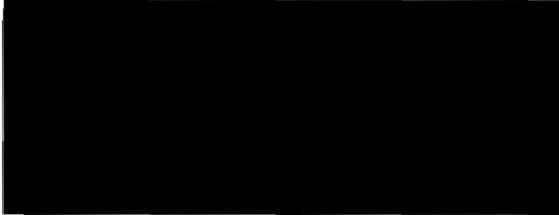
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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



G3

FILE: [REDACTED]

Office: MEMPHIS

Date:

MAR 11 2009

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

IN 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Memphis, Tennessee, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly and untimely filed.

The record indicates that on March 6, 2007, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before June 26, 2007. On April 27, 2007, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On March 25, 2008, the field office director concluded that the bond had been breached on June 26, 2007.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

In the instant case, there is no Form G-28, Entry of Appearance as Attorney or Representative, on file. As such, [REDACTED], who has filed the Form I-290B, has no standing in this proceeding.

Accordingly, pursuant to 8 C.F.R. § 292.4(a), the AAO sought to clarify whether [REDACTED] is authorized to represent the obligor in this proceeding. On January 15, 2009, a facsimile was sent to counsel's office requesting that a properly executed Form G-28 be sent to the AAO by mail or fax within five business days. Nearly two months later, a properly executed Form G-28 has not been submitted to the AAO. As there is no evidence that [REDACTED] is authorized to represent the obligor in this proceeding and to file a Form I-290B on behalf of the obligor [REDACTED] is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the appeal was not properly file, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the *affected party must file the complete appeal within 30 days of after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. See 8 C.F.R. § 103.5a(b). The date of filing is not the date of mailing, but the date of actual receipt. See 8 C.F.R. § 103.2(a)(7)(i).*

The record indicates that the field office director issued the Notice-Immigration Bond Breached on March 25, 2008. It is noted that the field office director properly gave notice to the obligor that it had 30 days to file the appeal. The Form I-290B, Notice of Appeal, is very clear in indicating that the appeal is not to be sent directly to the AAO. Nevertheless, the appeal was sent to the AAO, which was received on April 25, 2008. The appeal is not considered properly received until it is received by the district office, which rendered the unfavorable decision. 8 C.F.R. § 103.3(a)(1)(2)(i). The appeal was properly received at the respective district office on April 30 2008, 36 after the decision was issued. Accordingly, the appeal was untimely filed.

As the appeal was improperly and untimely filed, the appeal must be rejected.

ORDER: The appeal is rejected.