U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

6.3

[redacted]

FILE: [redacted] Office: NEW YORK Date: AUG 24 2004

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, Director
Administrative Appeals Office

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identifying data deleted to prevent clearly unwarranted invasion of personal privacy

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, New York, New York, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on January 11, 1999, the obligor posted a $500.00 bond conditioned for her voluntary departure. An order of the immigration judge (IJ) dated January 4, 1999, was issued granting the alien voluntary departure in lieu of removal on or before March 4, 1999. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On January 6, 2003, the BIA dismissed the appeal and granted the alien voluntary departure within 30 days from the date of the order. On April 7, 2003, the field office director concluded the bond had been breached.

On appeal, counsel asserts that the bonded alien has a pending petition for review and a stay of removal before the Second Circuit Court of Appeals.

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 (the Act) 8 U.S.C. § 1252(b)(3)(B). There is no evidence of record to indicate that the Second Circuit Court of Appeals has stayed the bonded alien's removal.

The alien was granted 30 days from the BIA order of January 6, 2003 to leave the United States. The alien did not leave as required on or before February 5, 2003. The field office director's decision of April 7, 2003 declaring the bond breach 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. 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 (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.