U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

[redacted]

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JAN 12 2005

FILE: [redacted] Office: LOS ANGELES Date:

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: 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.

Mari Johnson

Robert P. Wiemann, Director
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 dismissed.

The record indicates that on November 18, 2002, the obligor posted a $500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated November 18, 2002, was issued granting the alien voluntary departure in lieu of removal on or before January 17, 2003. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On January 30, 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 June 8, 2004 the field office director concluded the bond had been breached.

On appeal, the alien asserts that he has motion to reopen pending before the BIA.

A motion to reopen filed before the BIA does not automatically stay the execution of a removal order. 8 C.F.R. § 1003.6(b). Further, the record reflects that on July 22, 2004, the BIA denied the alien's motion to reopen.

On August 19, 2004, the alien petitioned the Ninth Circuit Court of Appeals for review of the BIA's decision.

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 Ninth Circuit Court of Appeals has stayed the bonded alien's removal.

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.