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: CHICAGO Date:

IN RE: Obligor:
Bonded Ali [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, Chicago, Illinois, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on May 2, 2002, the obligor posted a $500.00 bond conditioned on her voluntary departure. An order of the immigration judge (IJ) dated April 29, 2002 was issued granting the alien voluntary departure in lieu of removal on or before May 29, 2002. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On February 10, 2003, 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 March 10, 2003, the alien petitioned the Seventh Circuit Court of Appeals for review of the BIA's decision. The alien applied for an extension of her voluntary departure date, and on May 9, 2003, the field office director approved an extension of time until June 24, 2003. On June 18, 2003, the alien filed a motion to toll the voluntary departure and to stay removal with the Seventh Circuit Court of Appeals. On June 23, 2003, the Seventh Circuit Court of Appeals issued a temporary stay of removal, but denied the request for a tolling of the voluntary departure. On July 23, 2003, the Seventh Circuit Court of Appeals issued a stay of removal and again denied the request for a tolling of the voluntary departure. On August 7, 2003, the field office director concluded the bond had been breached.

Section 242(b)(3)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1252(b)(3)(B), provides that service of the petition for review does not stay the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

As previously mentioned, the Seventh Circuit Court of Appeals issued a stay of removal on July 23, 2003, 16 days earlier than the stipulated breach date, but denied the request for a tolling of the voluntary departure. As the voluntary departure order was not stayed, the breach of the voluntary departure bond 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.