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

U.S. Citizenship and Immigration Services

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JAN 1 2 2005

FILE: [redacted] Office: LOS ANGELES Date:

IN RE: Obligor: [redacted]
Bonded Alie

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.

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 July 1, 2002, the obligor posted a $500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated June 28, 2002, was issued granting the alien voluntary departure in lieu of removal on or before August 27, 2002. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On November 25, 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 December 23 2003, the alien petitioned the Ninth Circuit Court of Appeals for review of the BIA's decision. On August 30, 2004, the field office director concluded the bond had been breached.

On appeal, counsel asserts that alien's case is currently pending before the Ninth Circuit Court of Appeals by means of a motion to accept a late filing fee.

The record reflects that on February 12, 2004, the Ninth Circuit Court of Appeals dismissed the petition for review as the alien failed to pay the outstanding fee as ordered by the court on January 8, 2004.

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 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.