U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

U.S. Citizenship and Immigration Services

[redacted]

G3

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 October 9, 2002, the obligor posted a $500.00 bond conditioned for her voluntary departure. An order of the immigration judge (IJ) dated October 4, 2002, was issued granting the alien voluntary departure in lieu of removal on or before December 2, 2002. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On August 11, 2003, the BIA dismissed the alien's appeal and granted the alien voluntary departure within 30 days from the date of the order. On July 19, 2004, the field office director concluded the bond had been breached.

On appeal, the obligor asserts that the bond was not breached because a decision on her appeal before the Ninth Circuit Court of Appeal was not rendered until July 19, 2004, and therefore, she is entitled to a 60 day period of voluntary departure.

The obligor, however, provides no evidence that an appeal was filed before the Ninth Circuit Court of Appeal. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *See Matter of Treasure Craft of California,* 14 I&N Dec. 190 (Reg. Comm. 1972).

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 alien was granted 30 days from the BIA order of August 11, 2003 to leave the United States. The alien did not leave as required on or before September 10, 2003. The field office director's decision of July 19, 2004 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 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.