

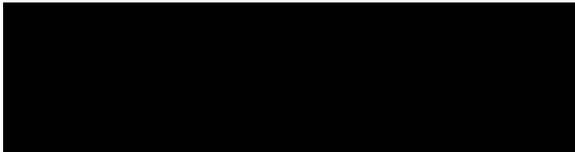
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
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FILE: [REDACTED] Office: PHOENIX (REN) Date: FEB 01 2010

IN RE: Obligor: [REDACTED]  
Bonded Alien: [REDACTED]

IMMIGRATION BOND: Bond Conditioned for the Delivery of an Alien under Section 103 of the  
Immigration and Nationality Act, 8 U.S.C. § 1103

IN 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. §103.5(a)(1)(i).

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, Phoenix, Arizona, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on May 18, 2006, the obligor posted a \$1,500.00 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated October 29, 2009, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of Immigration and Customs Enforcement (ICE), at 9:00 a.m. on November 9, 2009, at 1351 Corporate Blvd., Reno, NV 89120. The obligor failed to present the alien, and the alien failed to appear as required. On November 12, 2009, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserts that a petition for review is currently pending before the United States Court of Appeals for the Ninth Circuit (Ninth Circuit).

The record reflects that a removal hearing was held on April 12, 2006, and the alien was ordered removed *in absentia*. On May 25, 2006, the alien filed a motion to reopen before the Board of Immigration Appeals (BIA). On September 29, 2006, the BIA denied the motion to reopen. The alien filed a petition for review before the Ninth Circuit. On August 17, 2009, the petition for review was dismissed in part and denied in part by the Ninth Circuit and its mandate was issued on October 9, 2009.

Delivery bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to an immigration officer or immigration judge upon each and every written request until removal proceedings are finally terminated, or until the alien is actually accepted by ICE for detention or removal. *Matter of Smith*, 16 I&N Dec. 146 (Reg. Comm. 1977).

The regulations provide that an obligor shall be released from liability where there has been "substantial performance" of all conditions imposed by the terms of the bond. 8 C.F.R. § 103.6(c)(3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. § 103.6(e).

8 C.F.R. § 103.5a(a)(2) provides that personal service may be effected by any of the following:

- (i) Delivery of a copy personally;
- (ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;
- (iii) Delivery of a copy at the office of an attorney or other person including a corporation, by leaving it with a person in charge;

(iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

The evidence of record indicates that the Notice to Deliver Alien dated October 29, 2009 was sent to the obligor at [REDACTED] via certified mail. This notice demanded that the obligor produce the bonded alien on November 9, 2009. The United States Postal Service track and confirmation receipt indicates a notice was left at the obligor's address of record on October 31, 2009.<sup>1</sup> Consequently, the record clearly establishes that the notice was properly served on the obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).

It is clear from the language used in the bond agreement that the obligor shall cause the alien to be produced or the alien shall produce himself to an ICE officer upon each and every request of such officer until removal proceedings are either finally terminated or the alien is accepted by ICE for detention or removal.

It must be noted that delivery bonds are exacted to ensure that aliens will be produced when and where required by ICE for hearings or removal. Such bonds are necessary in order for ICE to function in an orderly manner. The courts have long considered the confusion which would result if aliens could be surrendered at any time or place it suited the alien's or the surety's convenience. *Matter of L-*, 3 I&N Dec. 862 (C.O. 1950).

After a careful review of the record, it is concluded that 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.

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<sup>1</sup> [REDACTED] accessed on January 22, 2010.