



U.S. Citizenship
and Immigration
Services



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DATE:

NOV 01 2012

Office: KANSAS, MO (SPG)

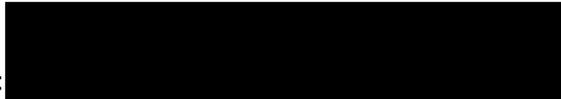
FILE:



IN RE:

Obligor:

Bonded Alien:



IMMIGRATION BOND:

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

ON BEHALF OF OBLIGOR: Self-represented

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

The record indicates that on May 3, 2011, the obligor posted a \$2,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated August 15, 2012, 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 10:00 a.m. on August 29, 2012, at 2401 W. Old Route 66, Strafford, MO 65757 or the nearest office. The obligor failed to present the alien, and the alien failed to appear as required. On September 5, 2012, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserts that the breach notice is defective as it relates to a bond posted on behalf of another individual.

The record reflects that the field office director listed the alien's name as [REDACTED] on the breach notice. The fact remains that the obligor received the Form I-340, which notified the obligor to surrender [REDACTED] for deportation. The obligor failed to surrender the alien as required and the alien failed to appear. Further, the breach notice sets forth the type, date, amount and receipt number of the bond. Listing the incorrect middle name of the bonded alien does not invalidate the notice of breach.

The obligor asserts that although he advised the bonded alien to comply with the Form I-340, the alien did not surrender on August 29, 2012, because his child was ill.

The obligor is not relieved of its responsibility to deliver and surrender the bonded alien at the time and place specified in the demand notice because of a purported illness of the alien's child. The record, however, does not establish that the obligor had contacted ICE concerning this purported illness and he has not provided any evidence to support his assertion. *Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. Matter of Soffici, 22 I&N Dec. 158, 165 (Comm. 1998) (citing Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972)).*

The obligor is bound by the terms of the contract to which it obligated itself. It is noted that the terms of the Form I-352 for bonds conditioned upon the delivery of the alien establish the following condition: "the obligor shall cause the alien to be produced or to produce himself/herself . . . upon each and every written request until *exclusion/deportation/removal proceedings* . . . are finally terminated." (Emphasis added). Thus, the obligor is bound to deliver the alien by the express terms of the bond contract until either exclusion, deportation or removal proceedings are finally terminated, or one of the other conditions occurs.

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, as specified in the appearance notice, 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 August 15, 2012 was sent to the obligor at [REDACTED] via certified mail. This notice demanded that the obligor produce the bonded alien on August 29, 2012. The domestic return receipt indicates the obligor received notice to produce the bonded alien on August 20, 2012. 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.