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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:



Office: LOS ANGELES

Date: MAR 07 2005

IN RE:

Obligor:
Bonded Alien:



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 August 2, 2002, the obligor posted a \$500.00 bond conditioned for her voluntary departure. An order of the immigration judge (IJ) dated August 2, 2002, was issued granting the alien voluntary departure in lieu of removal on or before September 3, 2002. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On December 9, 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 8, 2004, the field office director concluded the bond had been breached.

On appeal, the obligor asserts that she has a motion to reconsider currently pending before the BIA. The obligor also asserts that she is filing an appeal before the 9th Circuit Court of Appeals.

The regulation at 8 C.F.R. § 1003.2(f) provides in part that filing a motion to reconsider shall not stay the execution of any decision made in the case. Likewise, 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). Execution of such decision shall proceed unless a stay of execution is specifically granted by the BIA, the IJ, the Circuit Court or an authorized officer of Immigration and Customs Enforcement (ICE). There is no evidence of record to indicate that a stay of deportation was granted.

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 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.