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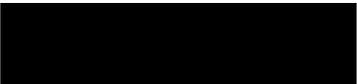


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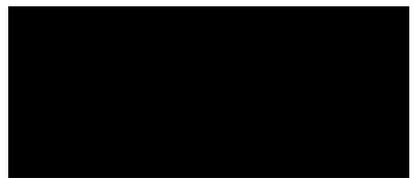
Office: SACRAMENTO

Date: **SEP 08 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:



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.

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, San Francisco, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on August 28, 2003, the obligor posted a \$1000.00 bond conditioned for her voluntary departure. An order of the immigration judge (IJ) dated August 27, 2003, was issued granting the alien voluntary departure in lieu of removal on or before October 6, 2003. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On January 13, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 30 days from the date of the order. On February 14, 2005, the alien filed a motion to reopen before the BIA. On February 25, 2005, the field office director concluded the bond had been breached.

On appeal, counsel asserts that the bonded alien has a pending motion to reopen before the BIA.

The regulation at 8 C.F.R. § 1003.2(f) provides in part that a filing of a motion to reopen or a motion to reconsider shall not stay the execution of any decision made in the case. Execution of such decision shall proceed unless a stay of execution is specifically granted by the BIA, the IJ or an authorized Immigration and Customs Enforcement (ICE) officer. As the voluntary departure order was not stayed, the breach of the voluntary departure bond 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 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.