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U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: LOS ANGELES

Date:

FEB 22 2007

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:

[REDACTED]

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

Robert P. Wiemann, Chief
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 sustained.

The record indicates that on March 11, 2005, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On March 10, 2005, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before April 11, 2005. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On May 2, 2006, the BIA dismissed the appeal, and granted the alien voluntary departure within 32 days from the date of the order. On June 1, 2006, the alien filed a motion to reconsider before the BIA. The field office director, in his notice dated July 12, 2006, concluded the bond had been breached on June 3, 2006.

On appeal, counsel asserts that the alien filed a timely motion to reconsider and, therefore, the bond had not been breached.

The Ninth Circuit Court of Appeal's ruling in *Barroso v. Gonzales*, 429 F.3d 1195 (9th Cir. 2005) states in part that where a timely motion to reconsider has been filed before the expiration of the voluntary departure period, the period of voluntary departure is automatically tolled while the BIA is considering the motion.

This ruling is applicable to the case at hand as the alien did file a *timely* motion to reconsider before the BIA. The bonded alien is allowed to remain in the United States under the condition of the voluntary departure bond until the BIA issues its decision. Therefore, the field office director's decision to breach the bond will be withdrawn, the appeal will be sustained, and the bond will be continued

It is noted that the BIA denied the alien's motion to reconsider on September 11, 2006.

ORDER: The appeal is sustained. The field office director's decision declaring the bond breached will be withdrawn and the bond continued in full force and effect.