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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: NOV 20 2007

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.

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 dismissed.

The record indicates that on October 14, 2003, the obligor posted a \$500.00 bond conditioned for the voluntary departure of the above referenced alien. On October 14, 2003, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before December 13, 2003. On November 4, 2003, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On December 9, 2004, 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 January 7, 2005, the alien filed a petition for review before the United States Court of Appeals of the Ninth Circuit (Ninth Circuit). On October 5, 2006, the Ninth Circuit dismissed the petition for review for failure to prosecute and indicated that the order shall act and for the mandate of the court. On March 8, 2007, the field office director concluded the bond had been breached on January 8, 2005.

On appeal, the obligor asserts that the alien has filed a motion to reopen and an appeal which are still pending.

The BIA inquiry system does not contain any information that a motion to reopen or an additional appeal has been filed, and the obligor has provided no 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)). As previously noted, the BIA rendered its decision on December 9, 2004 regarding the alien's appeal filed on November 4, 2003.

Pursuant to General Order 6.4(c)(1) of the Ninth Circuit, upon the filing of a motion or request for stay of removal or deportation, the order of removal or deportation is temporarily stayed until further order of the court.

Pursuant to General Order 6.4(c)(7) of the Ninth Circuit, if a petition for review is filed without a request for a stay of deportation or removal, a brief schedule shall be established upon the filing of the petition.

The record contains a printout from the Public Access to Court Electronic Records (PACER), which indicates that a brief schedule had been set. The General Order 6.4(c)(1) is not applicable to this case, as the PACER printout does not indicate that a request for stay of removal had been filed by the bonded alien.

The alien was granted 30 days from the BIA's order of December 9, 2004 to leave the United States. The alien did not leave as required on or before on or January 8, 2005. The field office director's decision of March 8, 2007 declaring the bond breached on January 8, 2005 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 Immigration and Customs Enforcement 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.