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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

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U.S. Citizenship
and Immigration
Services

63

FILE:

Office: COW

Date:

MAY 28 2009

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

A handwritten signature in cursive script, appearing to read "John F. Grissom".

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Director, Headquarters, Bonds, Immigration and Customs Enforcement (ICE), and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The record indicates that on May 25, 2000, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before July 24, 2000. On May 30, 2000, the obligor posted a \$500.00 bond conditioned for the above referenced alien. On June 23, 2000, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On November 27, 2002, 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 10, 2003, the alien filed a motion to reopen before the BIA. On September 16, 2003, the Field Office Director, Detention and Removal, Los Angeles, California, granted the alien's Form I-246, Application for Stay of Deportation. On August 31, 2004, the BIA granted the alien's motion to reopen, vacated its order of November 27, 2002, and reinstated the alien's appeal. On February 14, 2005, the BIA dismissed the appeal and granted the alien voluntary departure within 30 days from the date of the order. On March 11, 2005, the alien filed a motion to reopen and reconsider before the BIA. On April 6, 2005, the Field Office Director, Detention and Removal, Los Angeles, California, granted the alien's Form I-246, Application for Stay of Deportation. On May 11, 2005, the BIA denied the motion to reopen and reconsider. On April 24, 2007, the field office director concluded that the bond had been breached on July 24, 2000.

The appeal has been filed by the bonded alien's attorney. Only an affected party, a person or entity with legal standing may file an appeal of an unfavorable decision. The alien and the attorney are without standing in this proceeding. 8 C.F.R. § 103.3(a)(1)(iii)(B).

An immigration bond is a contract between ICE and the obligor. The obligor or his attorney-in-fact is the proper party to appeal the ICE decision to breach the bond. *See Matter of Insurance Company of North America*, 17 I&N Dec. 251 (Act. Reg. Comm. 1978).

The regulation provides that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee ICE has accepted will not be refunded. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

Even if the appeal had been filed by the obligor or his attorney-in-fact, the appeal would still be rejected as it was untimely filed. The record indicates that the director issued the Notice-Immigration Bond Breached on April 24, 2007. The appeal, however, was received by ICE on June 1, 2007, 38 days after the decision was issued. In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

As the appeal was improperly filed, the appeal must be rejected.

ORDER: The appeal is rejected.