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**U.S. Citizenship
and Immigration
Services**

GI

FILE:



Office: HOUSTON

Date: SEP 08 2005

IN RE:

Obligor:

Bonded Alien:



aka

IMMIGRATION BOND:

Bond Conditioned for the Delivery of an Alien under Section 103 of the
Immigration and Nationality Act, 8 U.S.C. § 1103

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 delivery bond in this matter was declared breached by the District Director, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on April 9, 1999, the obligor posted a \$3,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated January 27, 2000 was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of the Immigration and Naturalization Service (legacy INS), now Immigration and Customs Enforcement (ICE), at 10:00 a.m. on February 23, 2000, at [REDACTED] the obligor failed to present the alien, and the alien failed to appear as required. On June 26, 2000, the district director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserts that the director erred in breaching the bond because: (1) he did not send all notices in connection with the bond, (2) he did not comply with the terms and provisions of 8 C.F.R. 103.5a requiring personal service, and (3) he did not notify the obligor of the alien's scheduled hearing,

The bond agreement is silent as to any requirement compelling ICE to notify the obligor of all bond-related matters, despite the obligor's assertion to the contrary. Similarly, neither the statute, the regulations, nor administrative case law provide support for the obligor's allegation that ICE is required to notify the obligor of all bond-related matters.

The obligor further asserts that on September 2, 1999 the alien was ordered deported and, therefore, ICE is statutorily precluded from declaring the bond breached because ICE's authority to enforce the bonded alien's departure expired, six months from the date of the final order of removal as provided under form section 242(c) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1252(c).

Section 241(a)(1) of the Act, 8 U.S.C. § 1231(a)(1), was added by section 305 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and was effective on April 1, 1997. It superseded former section 242(c) of the Act, 8 U.S.C. § 1252 (c) and changed the six-month period of time to 90 days.

Removal proceedings do not end when the 90-day post-order detention period has expired. Section 241(a)(3) of the Act provides that if an alien does not leave or is not removed during the 90-day period, the alien shall be subject to supervision under regulations prescribed by the Attorney General, now the Secretary, Department of Homeland Security (Secretary). Posting of a bond may be authorized as a condition of release after the 90-day detention period. 8 C.F.R. § 241.5(b) provides that: "An officer authorized to issue an order of supervision may require the posting of a bond in an amount determined by the officer to be sufficient to ensure compliance with the conditions of the order, including surrender for removal." Thus, the Secretary has the continuing authority to require aliens to post bond following the 90-day post-order detention period.

Under the provisions of the Immigration Bond Form I-352, the obligor agrees to produce the alien upon demand until: (1) exclusion/deportation/removal proceedings are finally terminated; (2) the alien is accepted by ICE for detention or deportation/removal; or (3) the bond is canceled for some other reason. The obligor is relieved of its contractual responsibility to deliver the alien only if one of these enumerated circumstances has occurred. As the obligor has not shown any of the above occurred, the bond is still valid and binding.

Delivery bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to an immigration officer or immigration judge upon each and every written request until removal

proceedings are finally terminated, or until the alien is actually accepted by ICE for detention or removal. *Matter of Smith*, 16 I&N Dec. 146 (Reg. Comm. 1977).

The regulations provide that an obligor shall be released from liability where there has been "substantial performance" of all conditions imposed by the terms of the bond. 8 C.F.R. § 103.6(c)(3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. § 103.6(e).

8 C.F.R. § 103.5a(a)(2) provides that personal service may be effected by any of the following:

- (i) Delivery of a copy personally;
- (ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;
- (iii) Delivery of a copy at the office of an attorney or other person including a corporation, by leaving it with a person in charge;
- (iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

The evidence of record indicates that the Notice to Deliver Alien dated January 27, 2000 was sent to the obligor at [REDACTED] via certified mail. This notice demanded that the obligor produce the bonded alien on February 23, 2000. The domestic return receipt shows it was signed by a representative of Nobel Insurance Company, and was subsequently received by the legacy INS on February 4, 2000. Consequently, the record clearly establishes that the notice was properly served on the obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).

It is clear from the language used in the bond agreement that the obligor shall cause the alien to be produced or the alien shall produce himself to an ICE officer upon each and every request of such officer until removal proceedings are either finally terminated or the alien is accepted by ICE for detention or removal.

It must be noted that delivery bonds are exacted to insure that aliens will be produced when and where required by ICE for hearings or removal. Such bonds are necessary in order for ICE to function in an orderly manner. The courts have long considered the confusion which would result if aliens could be surrendered at any time or place it suited the alien's or the surety's convenience. *Matter of L-*, 3 I&N Dec. 862 (C.O. 1950).

After a careful review of the record, it is concluded that the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the district director will not be disturbed.

ORDER: The appeal is dismissed.