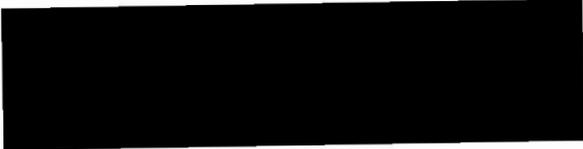




U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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FILE: [REDACTED]

Office: MIAMI (BDC) Date:

JAN 10 2007

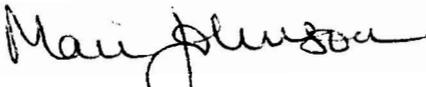
IN RE: Obligor: [REDACTED]
Bonded Alien: [REDACTED]

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-presented

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 delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, Miami, Florida, and a subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is before the AAO on a motion to reopen. The motion will be dismissed, and the order dismissing the appeal will be affirmed.

The record indicates that on August 22, 2002, the obligor posted a \$5,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated September 16, 2002, 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 legacy Immigration and Naturalization Services (INS), now Immigration and Customs Enforcement (ICE), at 10:00 a.m. on October 1, 2002, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On May 8, 2003, the field office director informed the obligor that the delivery bond had been breached.

Pursuant to 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence.

The regulation at 8 C.F.R. § 103.5(a)(4) provides that a motion that does not meet applicable requirements shall be dismissed.

On motion, the obligor asserts that on October 1, 2002, the alien appeared before the immigration court and the alien's motion to reopen proceedings was granted by the immigration judge. A master hearing was scheduled before the immigration court on October 10, 2002 and the alien was subsequent granted voluntary departure on or before February 7, 2003. Counsel provides copies of a Notice of Hearing, an Order of the Immigration Judge and a Certificate of Service all dated October 1, 2002. Counsel also provides an Order of the Immigration Judge dated October 10, 2002, which granted the alien voluntary departure on or before February 7, 2003.

The alien's appearance before the immigration court on October 1, 2002 has no bearing in his matter as bond proceedings are separate and distinct from deportation proceedings. Deportation proceedings are between the United States government and an alien with a questionable right to remain in the United States. A delivery bond is a contract between ICE and the obligor, where in consideration for obtaining the alien's release from custody, the obligor agrees to produce the alien on demand until the obligation to do so terminates under grounds specified in the contract. The obligor has failed to produce the alien or to indicate that it could or would have produced him given more notice. Therefore, the motion will be dismissed, and the order dismissing the appeal will be affirmed.

ORDER: The motion is dismissed. The decision of the AAO dated December 15, 2003 is affirmed.