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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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G71



FILE:



Office: ICE BOND MANAGEMENT UNIT

11/17/2008

Date:

IN RE:

Obligor:  
Bonded Alien:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The delivery bond in this matter was declared breached by the Bond Management Unit, Immigration and Customs Enforcement (ICE). The obligor filed an appeal with a request for a waiver of the \$585 filing fee for Form I-1290B. The fee waiver request is now before the Administrative Appeals Office (AAO) for consideration. The fee waiver request will be denied.

The record indicates that on August 22, 2005 the obligor posted a \$1,500 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated March 18, 2008, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of ICE at 10:00 a.m. within five days of April 7, 2008, at the nearest ICE, Detention and Removal Office. The obligor failed to present the alien, and the alien failed to appear as required. On April 28, 2008, the director informed the obligor that the delivery bond had been breached. The obligor subsequently submitted an appeal on Form I-290B with a request for a waiver of the appellate filing fee.

The regulation at 8 C.F.R. § 103.7(c) provides, in pertinent part, that the authority to grant a waiver of a filing fee falls to “[t]he officer of the Department of Homeland Security having jurisdiction to render a decision on the application, petition, appeal, motion or request.” The authority to adjudicate bond breach appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO generally exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). Accordingly, the authority to grant or deny a fee waiver request on bond breach appeals lies with the AAO.

The regulation at 8 C.F.R. § 103.3(a)(2) states an appeal must be accompanied by a nonrefundable fee as set forth in 8 C.F.R. § 103.7.

However, a fee relating to an appeal may be waived in any case under Citizenship and Immigration Services jurisdiction in which the alien or other party affected is able to substantiate that he or she is unable to pay the prescribed fee. The person seeking a fee waiver must file his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. § 1746, (1) asking for permission to prosecute without payment of fee of the appeal, or request, and (2) stating his or her belief that he or she is entitled to or deserving of the benefit requested and the reasons for his or her inability to pay. 8 C.F.R. § 103.7(c).

In the instant case, the obligor submitted a request for fee waiver with the appeal; however, the request was not in the form of an affidavit or of an unsworn declaration pursuant to 28 U.S.C. § 1746. In addition, the obligor failed to claim or to substantiate that she was unable to pay the required fee. The AAO may not approve the fee waiver request as it did not meet the regulatory requirements outlined in 8 C.F.R. § 103.7(c). Accordingly, the fee waiver request is denied.

**ORDER:** The fee waiver request is denied.