

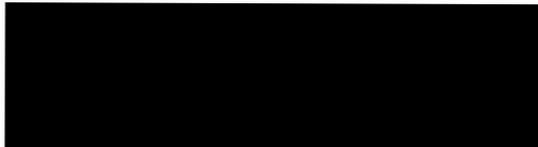
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, D.C. 20529-2090

U.S. Citizenship
and Immigration
Services



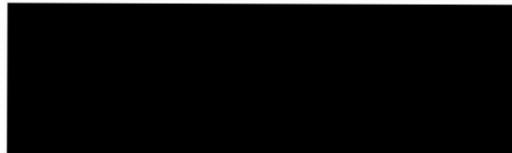
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FILE: [REDACTED] Office: NEW YORK Date: AUG 04 2009

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:



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).

John F. Grissom,
Acting Chief, Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, New York, New York. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen and a motion to reconsider. The motion will be dismissed.

The record indicates that on November 14, 2006, the obligor posted a \$150,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated January 14, 2009, 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 Immigration and Customs Enforcement (ICE) at 9:00 a.m. on February 12, 2009, at 26 Federal Plaza, 9th Floor, Room 9-110, New York, NY 10278. The obligor failed to present the alien, and the alien failed to appear as required. On February 12, 2009, the field office director informed the obligor that the delivery bond had been breached.

The record reflects that a removal hearing was held on November 21, 2008, and the alien was ordered removed *in absentia*. On appeal, counsel asserted that the alien had voluntarily departed the United States and provided a border crossing card as evidence of the alien's departure. The border crossing card was not accepted as evidence of departure as it was not certified to be a true copy of the original and was not received through official channels.

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or ICE policy. A motion to reconsider a decision on an application must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3).

The regulation at 8 C.F.R. § 103.5(a)(4) states, "[a] motion that does not meet applicable requirements shall be dismissed." As counsel failed to cite any precedent decisions the motion to reconsider will be dismissed.

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. 8 C.F.R. § 103.5(a)(2),

On motion, counsel provides additional documents with certified translations reflecting the alien's residence in his native country, Russia, since February 2009.

As previously noted in the decision dismissing the appeal, ICE will accept a document signed by an embassy official, consular officer, or an immigration officer abroad, and bearing an appropriate seal or other indicia of reliability as proof that a voluntary departure or self-removal has occurred. The field office director retains the discretion to accept other documents of voluntary departure. The original of such documents may be delivered either by the surety or through diplomatic channels. Copies of such documents will be accepted only if received through diplomatic channels.

Although the documents submitted on motion reflect a Russian place of residence for the bonded alien, the documents do not stipulate that the alien departed the United States. Therefore, the documents cannot serve as proof that a voluntary departure or self-removal has occurred.

It is unclear why no credible documentation has been presented to a United States Embassy official, consular officer or immigration officer abroad if the alien voluntarily departed the United States prior to his surrender date. Counsel has failed to produce credible documentation establishing the alien had departed the United States prior to his surrender date. Therefore, the motion will be dismissed.

It is concluded that the issue presented on motion fails to contain new facts to be proved and fails to cite precedent decisions supporting a motion to reconsider. 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 May 20, 2009 is affirmed.