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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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Services

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FILE: [REDACTED] Office: HOUSTON Date: MAY 20 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

IN 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).

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, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on June 11, 2003, 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 July 24, 2006, 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) for an interview at 9:00 a.m. on August 15, 2006, at 126 Northpoint Drive, Houston, TX 77060. The obligor failed to present the alien, and the alien failed to appear as required. On August 21, 2006, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserts that on the morning of August 15, 2006, he received a voice message from an ICE official informing him that it was not necessary for him to surrender the alien to the ICE office.

A review of the record, however, does not contain any evidence from the Houston Office corroborating the obligor's assertion. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

On appeal, the obligor asserts that the bonded alien was no longer in removal proceedings as at the time the Form I-340 was issued, the immigration judge had granted the alien's withholding of removal under and cancellation of removal under sections section 241(b)(3) and 240A(b)(1) of the Immigration and Nationality Act (the Act). The obligor asserts that the forfeiture of the immigration bond is without cause and in error.

The record reflects that a removal hearing was held on June 17, 2004, and the alien was ordered removed from the United States. The alien's application for withholding of removal and cancellation of removal were denied. On July 19, 2004, the alien appealed the immigration judge's (IJ) decision to the Board of Immigration Appeals (BIA). On December 27, 2005, the BIA determined that the alien had established her eligibility for cancellation of removal and sustained the appeal. On July 10, 2006, the immigration judge granted the alien's withholding of removal and cancellation of removal under sections 241(b)(3) and 240A(b)(1) of the Act.

The regulation at 8 C.F.R. § 241.4(b)(3) states that an alien granted withholding of removal under section 241(b)(3) of the Act who is otherwise subject to detention is subject to the provisions of this part 241. An alien released pursuant to 8 C.F.R. § 241.4 shall be released pursuant to an order of supervision. 8 C.F.R. § 241.5(a).

Although the alien was no longer in removal proceedings as of July 10, 2006, the obligor was not relieved of his responsibility to deliver the bonded alien at the time and place specified in the field officer director's demand notice as a post order custody was still needed to be determined.<sup>1</sup>

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 July 24, 2006 was sent to the obligor at [REDACTED], Houston, TX 77036 via certified mail. This notice demanded that the obligor produce the bonded alien on August 15, 2006. The domestic return receipt indicates the obligor received notice to produce the bonded alien on July 31, 2006. 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

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<sup>1</sup> The alien would have been released pursuant to an Order of Supervision, Form I-220B, and an Order of Supervision Bond may have been placed upon her.

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 field office director will not be disturbed.

**ORDER:** The appeal is dismissed.