

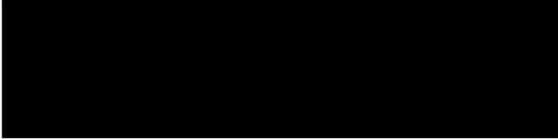


U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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FILE:



Office: NEW YORK Date: NOV 17 2009

IN RE:

Obligor:

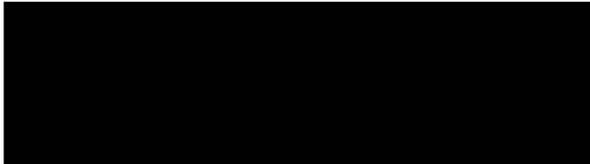
Bonded Alien:



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:



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).

Perry Rhew,
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 and motion were dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a second motion to reopen and a motion to reconsider. The motion will be granted. The previous decisions of the AAO will be withdrawn.

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.

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).

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),

The record reflects that a removal hearing was held on November 21, 2008, and the alien was ordered removed *in absentia*. On appeal and on his first motion, counsel asserted that the alien had voluntarily departed the United States and provided documents as evidence of the alien's departure. The documents were not accepted as evidence of departure as they were not certified to be a true copy of the original, were not received through official channels, and could not serve as proof that a voluntary departure or self-removal had occurred.

On the second motion, counsel provides a photocopied Form I-392, Notification of Departure of Alien, from the United States Embassy in Moscow, Russia indicating that the alien departed the United States on September 19, 2008. The Form I-392 also indicates that the alien's passport contained an admission stamp of September 20, 2008 into Russia and that the alien's departure date had been confirmed by the Interagency Border Inspection System (IBIS). The authenticity of the Form I-392 has been verified by the New York Office.

Based on the documentation from the United States Embassy in Moscow, Russia along with ICE records establishing that the bonded alien timely departed the United States, the field office director's decision to breach the bond will be withdrawn, and the bond will be cancelled.

ORDER: The motion is granted. The decisions of the AAO dated May 20, 2009 and August 4, 2009, are withdrawn. The field office director's decision to breach the bond will be withdrawn, and the bond will be cancelled.