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



U.S. Citizenship
and Immigration
Services



G₁

FILE:



Office: DENVER

Date:

JUL 29 2010

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, Denver, Colorado, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed..

The record indicates that on February 20, 2009, 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 January 25, 2010, 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 11:00 a.m. on March 29, 2010, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On May 7, 2010, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserts that due to his lack of experience, he misinterpreted the meaning of the Form I-340, and thought he had produce the alien's departure information. The obligor asserts once he obtained evidence of the alien's departure from the American Consulate in Mexico, he went to the Denver Office where it was explained to him that it was the alien and not the alien's departure documentation that was to be presented on March 29, 2010.

The record reflects that a removal hearing was held on December 30, 2009, and the alien was granted voluntary departure from the United States on or before April 29, 2010. The obligor, on appeal, submits a Form G-146, Nonimmigrant Checkout Letter, dated April 26, 2010, which indicates that the alien departed the United States on April 20, 2010. However, bond proceedings are separate and distinct from removal proceedings. Removal 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.

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.

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 the immigration officer 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 January 25, 2010 was sent to the obligor at [REDACTED] on via certified mail. This notice demanded that the obligor produce the bonded alien on March 29, 2010. The domestic return receipt indicates the obligor received notice to produce the bonded alien on January 28, 2010. 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 must be noted that delivery bonds are exacted to ensure that aliens will be produced when and where required by ICE for hearings or removal. Such bonds are necessary in order for ICE to 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.