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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

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**U.S. Citizenship
and Immigration
Services**

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[REDACTED]

FILE:

[REDACTED]

Office: BALTIMORE

Date: MAR 21 2011

IN RE:

Obligor:
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:

[REDACTED]

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 \$630. 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, Baltimore, Maryland, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The record indicates that on November 25, 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 June 8, 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 June 21, 2010, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On July 21, 2010, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserts that the alien's request for a change of venue was denied by the immigration judge, and that an appeal from that denial is currently pending before the Board of Immigration Appeals. The obligor asserts that the alien did not breach the bond as she did report to ICE with counsel in Baltimore, Maryland at 10:00 a.m. on June 21, 2010.

The record reflects that a Form I-862, Notice to Appear, was served on the alien on November 21, 2009. The Form I-862 informed the alien that she was to appear before an immigration judge (IJ) in Cleveland, Ohio on a date and time yet to be determined. The alien was subsequently scheduled for a master hearing on May 26, 2010. On May 7, 2010, the alien filed a motion to change venue. On May 21, 2010, the IJ denied the alien's motion to change venue. A removal hearing was held on May 26, 2010 and the alien was ordered removed *in absentia*. On May 28, 2010, the alien filed an interlocutory appeal before the Board of Immigration Appeals (BIA). The alien filed a Form I-246, Application for Stay of Deportation or Removal. On July 1, 2010, the Form I-246 was rejected by the field office director. On August 26, 2010, the BIA dismissed the appeal as moot.

The regulation at 8 C.F.R. § 1003.6(a) provides, in pertinent part, that a decision shall not be executed during the pendency of an appeal before the BIA. In the instant case, the right of appeal was not waived and was filed timely. Accordingly, the field office director's decision dated July 21, 2010, declaring the bond breached on June 21, 2010 is not valid.

Therefore, the field office director's decision to breach the bond will be withdrawn, the appeal will be sustained, and the bond will be continued in full force and effect.

ORDER: The appeal is sustained. The field office director's decision declaring the bond breached will be withdrawn and the bond continued in full force and effect.