

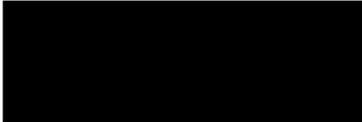
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



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FILE:



Office:



Date:

MAY 02 2011

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 \$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,

2 Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, [REDACTED]. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The AAO reopened its decision and, pursuant to 8 C.F.R. § 103.5(a)(5)(ii), afforded the obligor 30 days in which to supplement the record. The field office director's decision declaring the bond breached will be affirmed.

The record indicates that on November 10, 2009, the obligor posted a \$7,500 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated July 19, 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 9:00 a.m. on August 19, 2010, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On October 26, 2010, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserted that the bonded alien departed the United States to [REDACTED] on July 5, 2010. As evidence, the obligor submitted a copy of the biographical page of the alien's passport issued on July 21, 2010 in [REDACTED] and an unsigned Form I-210, Voluntary Departure and Verification of Departure. The obligor asserted that (s)he had planned to travel to the U.S. Consulate in [REDACTED] on December 27, 2010, to obtain a signed Form I-210, and the alien's biometric fingerprint card. The obligor requested an extension until January 4, 2011, to obtain the necessary documentation.

ICE initially received the unsigned Form I-210, which indicated that the alien departed the United States through the [REDACTED] pedestrian bridge on October 2, 2010.

On January 13, 2011, the AAO dismissed the appeal as no acceptable evidentiary documentation was provided to corroborate the obligor's assertion that the bonded alien had departed the United States on July 5, 2010.

On motion, the AAO has determined that additional evidence was received prior to the issuance of its decision. The order dismissing the appeal will be withdrawn and the appeal will be adjudicated on its merits.

On January 12, 2011, the AAO received an amended Form I-210 which was back dated to reflect that the alien departed the United States by bus in [REDACTED] bus on July 5, 2010. The Form I-210 dated December 23, 2010 was signed by an official of the U.S. Consulate in [REDACTED].

The AAO has held that an alien who departs from the United States prior to the date demanded for surrender may be in substantial compliance with the terms of his delivery bond. *Matter of Don Donaldson's Key Bail Service*, 13 I&N Dec. 563 (Acting Reg. Comm. 1969). However, the burden is upon the alien or his surety to prove by probative evidence that the alien did leave the country prior to his surrender date. *Matter of Peerless Insurance Company*, 15 I&N Dec. 133 (Reg. Comm. 1974).

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.

The authenticity of the signature on the Form I-210 has been verified by ICE. However, the amended departure date was solely based on the alien's claim without any corroborating evidence provided to the U.S. Consulate on December 23, 2010. Therefore, the amended Form I-210 has little probative value or evidentiary weight.

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 July 19, 2010 was sent to the obligor at [REDACTED] on via certified mail. This notice demanded that the obligor produce the bonded alien on August 19, 2010. The domestic return receipt indicates the obligor received notice to produce the bonded alien on July 21, 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 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 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.