U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

(b)(6)

U.S. Citizenship and Immigration Services

DATE: DEC 0 6 2013 Office: KANSAS CITY, MO FILE

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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

The record indicates that on April 18, 2012, the obligor posted a $10,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated July 31, 2013, was addressed 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 20, 2013, at The obligor failed to present the alien, and the alien failed to appear as required. On August 21, 2013, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor asserts that he did not receive the Form I-340 as he was out of town on vacation. The obligor refers to the mitigation clause relating to a bond breach and states that he should not be penalized because he did not receive the Form I-340. The obligor asserts that the bonded alien was delivered to ICE on September 24, 2013.[1]

While the obligor may be entitled to mitigation of the bond penal amount, mitigating procedures are not at issue in this proceeding. Consideration here is limited solely to the issue of whether the bond has been breached.

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, as specified in the appearance notice, 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. § 103.8(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;

[1] The record reflects that the bonded alien was delivered to ICE on September 23, 2013.

(iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

(v) If so requested by a party, advising the party by electronic mail and posting the decision to the party's USCIS account.

The obligor provides a copy of his flight itinerary via which indicates that he departed Kansas City, Missouri on August 14, 2013 and returned on August 19, 2013.

The evidence of record indicates that the Notice to Deliver Alien dated July 31, 2013, was sent to the obligor at via certified mail. This notice demanded that the obligor produce the bonded alien on August 20, 2013. The U.S. Postal Service attempted delivery of the certified mail (and according to its website,[2] a notice was left at the obligor's residence on August 2, 2013. The certified mail remained at the U.S. Postal Service until it was returned to the ICE office on August 19, 2013. As such, the obligor's failure to receive the Notice to Deliver Alien must be considered to be of his own making. Consequently, the record clearly establishes that the notice was properly served on the obligor by sending it to him at his last known address in compliance with 8 C.F.R. § 103.8(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.

[2] http://www.usps.com accessed October 21, 2013.