



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **JAN 09 2013**

Office: CHICAGO

FILE: [REDACTED]

IN RE: [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

ON 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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The record indicates that on September 24, 2008, 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 September 27, 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 October 14, 2010, at 101 West Congress Pkwy, 4th Floor, Chicago, IL 60605. The obligor failed to present the alien, and the alien failed to appear as required. On December 27, 2010, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel asserts that the obligor did not receive the Form I-340. Counsel, citing several case laws including *Bahrāmizadeh v. INS*, 717 F.2d 1170 (7th Cir. 1983), asserts that the obligor was not provided the required notice and, therefore, the obligor did not substantially violate the conditions of bond.

The obligor, in an affidavit, states that she believes the demand notice was returned to ICE because "the order to forward my mail to the [REDACTED] address where I live had expired, and regular mail would have been returned to sender."

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 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. § 103.5a(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 September 27, 2010 was sent to the obligor at [REDACTED] via certified mail. This notice demanded that the obligor produce the bonded alien on October 14, 2010. The notice was returned by the U.S. Postal Service as "return to sender, unclaimed, unable to forward." The certified mail remained at the U.S. postal office until it was returned to the ICE office in Chicago, Illinois on October 20, 2010. The breach is significant as the obligor failed to surrender the bonded alien. The record contains no evidence that the obligor had submitted a Form I-333, Obligor Change of Address, or any other written change of address notification. The obligor failed to inform ICE of her change of address as required. In signing the Bond Obligor Responsibilities on September 19, 2008, the obligor acknowledged that she would always advise ICE of her current address. The record contains no evidence that the obligor's failure to notify ICE of her change of address and, therefore, her ability to present the alien upon demand was in good faith. The U.S. Postal Service and ICE are separate entities and advising the U.S. Postal Service of a new address does not impute knowledge of the change of address to ICE. As such, the obligor's failure to receive the Notice to Deliver Alien must be considered to be of her own making. 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.