



U.S. Citizenship
and Immigration
Services

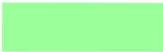
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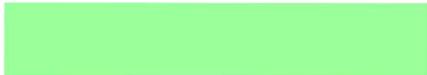
Office: PORTLAND

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 in your case.

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,


for 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, Portland, Oregon, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that on September 18, 2012, the obligor posted a \$30,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated January 3, 2012, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's appearance before Immigration and Customs Enforcement (ICE) at 10:00 a.m. on January 24, [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On January 29, 2013, the field office director informed the obligor that the delivery bond had been breached.

On appeal, the obligor argues that the breach notice is defective because ICE sent a demand notice to the bonded alien. As noted by the obligor, an immigration bond is a contract between ICE and the obligor, not the bonded alien. Nevertheless, the mailing of the demand notice to the alien did not prejudice the obligor as he does not allege that he did not timely receive the notice.

On appeal, the obligor asserts that in setting the bond, the immigration judge "conditioned it to secure the alien's presence at (1) Removal should his appeal or concomitant stay of removal be denied (2) Immigration court hearing should he prevail on appeal and his case be reopened." The obligor asserts that the delivery bond should not have been breached as there was no removal or hearings in place that the bonded alien failed to be delivered or cause himself to appear. The obligor states, "[t]o the extent that it could be said that there was a removal, the Ninth Circuit order of January 22, 2013, superseded such removal."

Contrary to the obligor's assertion, the Custody Order of the Immigration Judge only ordered that the request for a change in custody status be granted and that the alien be released from custody under bond. No evidence has been submitted to support the obligor's assertion. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

On appeal, the obligor asserts, in pertinent part:

The [demand] notice is also unintelligible about wanting the alien to be delivered to fill out a Change of Address Card and travel document application (reasons ICE now asserts for its summoning). The notice made no such indication for the alien to be delivered to fill out a change of address card and travel document. The notice simply cryptically asserted that Obligor deliver the alien to "discuss your immigration status" is, and whether this relates to the alien or the Obligor as in fact it stated. Referring to the Obligor, discussing the immigration status of a natural born U.S. citizen, would beg the question of the director's justiciable authority to do so.

The field office director properly exercised her authority by directing the obligor to produce the bonded alien. The obligor is not relieved of its responsibility to deliver the bonded alien at the time and place specified in the field office director's demand notice simply because a temporary stay of removal has been filed or granted. The field office director may call the alien in for custodial determination at any time. As the obligor noted, he is bound by the terms of the contract to which he obligated himself. The demand notice clearly indicated that ICE made a demand upon the obligor "to deliver or cause to appear the above alien" to ICE. Therefore, the obligor's assertion that the demand notice failed to indicate whether it related to the alien or himself has no merit. The terms of the Form I-352 for bonds conditioned upon the delivery of the alien establish the following condition: "the obligor shall cause the alien to be produced or to produce himself/herself . . . upon *each and every written request* until exclusion/deportation/removal proceedings . . . are finally terminated." (Emphasis added). Thus, the obligor is bound to deliver the alien by the express terms of the bond contract until either exclusion, deportation or removal proceedings are finally terminated, or one of the other conditions occurs.

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.

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. § 103.8(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;
- (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 evidence of record indicates that the Notice to Deliver Alien dated January 13, 2004 was sent to the obligor at [REDACTED] Portland, OR [REDACTED] via certified mail. This notice demanded that the obligor produce the bonded alien on January 24, 2013. The PS Form 3811, Domestic Return Receipt, indicates the obligor received notice to produce the bonded alien on January 8, 2013. Consequently, the record clearly establishes that the notice was properly served on the obligor 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.