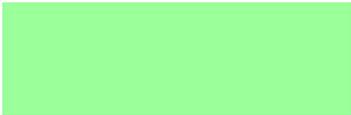


U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



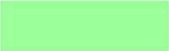
U.S. Citizenship  
and Immigration  
Services

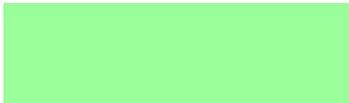
(b)(6)



DATE: **MAY 24 2013**

Office: HOUSTON

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

IN BEHALF OF OBLIGOR:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

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, Houston, Texas. A subsequent appeal was rejected by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reopen and a motion to reconsider. The motions will be rejected and the previous decision of the AAO will be affirmed.

The record indicates that on February 19, 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 December 8, 2011, was addressed to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of Immigration and Customs Enforcement (ICE) at 8:00 a.m. on January 19, 2012, at [REDACTED] Houston, TX 77060.<sup>1</sup> The obligor failed to present the alien, and the alien failed to appear as required. On February 6, 2012, the field office director informed the obligor that the delivery bond had been breached. On May 14, 2012, the AAO rejected the appeal as it had been filed by the bonded alien's attorney who had no standing in this proceeding.<sup>2</sup>

The regulation at 8 C.F.R. § 103.5(a)(1)(i) requires that a motion to reopen a proceeding or reconsider must be filed within 30 days of the underlying decision, and that a motion to reopen must be filed within 30 days except that failure to file a motion to reopen during this period may be excused when the obligor has demonstrated that the delay was reasonable and beyond the control of the obligor.

Pursuant to 8 C.F.R. § 103.5(a)(4), a motion that does not meet applicable requirements shall be dismissed.

The AAO rendered its decision on May 14, 2012. The envelope containing the Form I-290B, Notice of Appeal or Motion, was postmarked June 19, 2012, and it was received by the Houston Field Office on June 21, 2012, 38 days after the date of the AAO's decision. The obligor has not set forth any reason for the delay. The motion is untimely.

Assuming, arguendo, the motion had been timely filed it would still be rejected by the AAO. As the appeal was rejected on May 14, 2012, there is no decision on the part of the AAO that may be reopened in this proceeding. According to 8 C.F.R. § 103.5(a)(1)(ii), jurisdiction over a motion resides in the official who made the latest decision in the proceeding. The AAO did not enter a decision on this matter.

**ORDER:** The motion is rejected.

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<sup>1</sup> The notice was returned by the U.S. Postal Service as unclaimed. The obligor received the Notice-Immigration Bond Breached that was sent to the same address as the Notice to Deliver Alien. The record clearly establishes that the Notice to Deliver Alien was properly served on the obligor by sending it to him at his last known address in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).

<sup>2</sup> The obligor or his attorney-in-fact is the proper party to appeal the ICE decision to breach the bond. See *Matter of Insurance Company of North America*, 17 I&N Dec. 251 (Act. Reg. Comm. 1978).