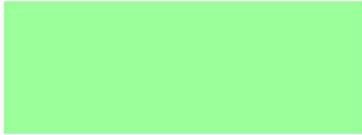




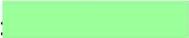
U.S. Citizenship
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Services

(b)(6)

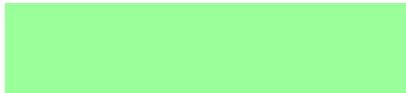


DATE: **NOV 10 2014**

Office: SEATTLE

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:



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, Seattle, Washington, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on November 27, 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 2, 2014, was sent to the obligor via regular mail. The notice demanded the bonded alien's appearance for an interview before an officer of Immigration and Customs Enforcement (ICE) at 9:00 a.m. on July 18, 2014, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On July 21, 2014, the field office director informed the co-obligor that the delivery bond had been breached.

On appeal, counsel asserts that the demand notice dated June 19, 2014 required the obligor to produce the bonded alien on July 7, 2014; that the obligor received the demand notice on July 7, 2014 after the scheduled delivery time; that the demand notice of July 7, 2014 was untimely and cannot be the basis for breaching the bond; and that the obligor spoke to an office at the Seattle Field Office, who, "on July 7th or 8th, 2014 set a new appearance date for July 18, 2014." Counsel argues:

The notice of the new date was only 10 or 11 days before the next date to appear, but the officer preparing the breach notice has backdated the notice to make it appear as though sufficient time was provided for the alien to appear. The alien is a fisherman and did not have sufficient time to return to Seattle from fishing. His attorney timely appeared in his place. The notice of the surrender date was not July 2, 2014, but July 7th or 8th. Thus, the notice was legally deficient, because it was untimely if the notice dated was listed as July 2, 2014, then the officer fraudulently backdated the notice to make it appear as though timely notice was given.

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. § 103.8(a)(1) provides that routine service may be effected by:

(i) consists of mailing the notice by ordinary mail addressed to the affected party and

his or her attorney or representative at his or her last known address, or

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

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.

Contrary to counsel's assertions, the current Notice to Deliver Alien was not "fraudulently backdated". The evidence of record indicates that the Notice to Deliver Alien dated June 19, 2014 was sent to the obligor via certified mail. This notice demanded that the obligor produce the bonded alien on July 7, 2014. However, as ICE had not received the PS Form 3811, Domestic Return Receipt, per its policy, another Notice to Deliver Alien dated July 2, 2014 was sent to the obligor via regular mail. The domestic return receipt, indicates the obligor signed for the first notice on July 7, 2014. On July 7, 2014, the obligor was contacted via telephone and the obligor acknowledged receipt of the first notice. The obligor was also informed that a second notice requiring the alien's appearance on July 18, 2014 had been sent to his address. The obligor verified that the alien was residing in Oceanside, California. On July 18, 2014, the obligor failed to present the alien; only the alien's attorney appeared. The alien's attorney is without standing in this proceeding as an immigration bond is a contract between ICE and the obligor.

The field office director properly exercised his authority by directing the obligor to produce the bonded alien. The obligor is bound by the terms of the contract to which he obligated himself. 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.

After a careful review of the present record, it is concluded that the record establishes that each notice (June 19, 2014 and July 2, 2014) was properly served on the obligor in compliance with 8 C.F.R. § 103.8(a)(1)(i) and (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.