

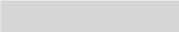


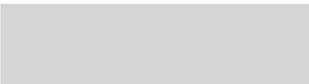
U.S. Citizenship  
and Immigration  
Services

(b)(6)



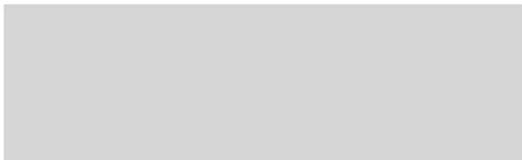
DATE: **JUL 10 2015** Office: HOUSTON, TX

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, Enforcement and Removal Operations, San Francisco, California, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on January 6, 2003, 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 10, 2014, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's appearance for an interview before Immigration and Customs Enforcement (ICE) at 9:00 a.m. on July 28, 2014, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On July 29, 2014, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel for the obligor asserts that the demand notice violated the terms of the delivery bond, the obligor substantially performed its obligations, the alien and his attorney should have been notified of ICE's appointment and the alien's removal proceedings are currently pending.

The obligor is not relieved of its responsibility to deliver the bonded alien at the time and place specified in the field officer director's demand notice, as the alien may be called in for an interview or custodial determination at any time. Bond proceedings are also separate and distinct from removal proceedings. Removal proceedings are between the United States government and an alien placed in immigration proceedings. 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.

The bonded alien and his attorney are not entitled to receive the Form I-340 as an immigration bond is a contract between ICE and the obligor. *See Matter of Insurance Company of North America*, 17 I&N Dec. 251 (Act. Reg. Comm. 1978). As noted, ICE notified the obligor on July 10, 2014 with a Form I-340 to present the alien as demanded.

Although the obligor failed to produce the alien as required by the demand notice, counsel asserts that all the conditions imposed by the terms of the bond were substantially performed by the obligor. 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).

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).

Mailing of a notice requesting surrender of the alien to the address of record of the obligor via certified mail, return receipt requested, complies with the requirements of personal service within the purview of 8 C.F.R. 103.5a(2) [now 103.8(a)(2)]. *Id.*

Service of the initiating notice and of notice of any decision issued by an immigration officer shall be accomplished by personal service. 8 C.F.R. § 103.8(c). The Notice to Deliver Alien is a request which is performed by personal service. The regulation at 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 July 10, 2014 was sent to the obligor via certified mail. This notice demanded that the obligor produce the bonded alien on July 28, 2014. The PS Form 3811, Domestic Return Receipt, indicates the obligor received notice to produce the bonded alien on July 14, 2014. The record establishes that the notice was properly served on the obligor in compliance with 8 C.F.R. § 103.8(a)(2)(iv).

The bond agreement indicates 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.

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*NON-PRECEDENT DECISION*

**ORDER:** The appeal is dismissed.