



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: **JUN 18 2015**

FILE #: [Redacted]

IN RE: Obligor: [Redacted]
Bonded Alien: [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]

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Field Office Director, Enforcement and Removal, Tampa, Florida, declared the voluntary departure bond breached. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on February 15, 2011, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before April 18, 2011. On February 25, 2011, 2005, the obligor posted a \$500.00 bond conditioned on his voluntary departure. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On October 10, 2012, the BIA dismissed the appeal, and granted the bonded alien voluntary departure within 60 days from the date of the order. On January 8, 2013, the bonded alien filed a motion to reopen before the BIA. On February 22, 2013, the motion was granted and the BIA remanded the record to the immigration court for further proceedings. In the notice dated July 29, 2014, the field office director concluded the voluntary departure bond had been breached on January 8, 2013.

On appeal, the obligor through counsel asserts that the bond has not been breached as the BIA remanded the bonded alien's case to the IJ for further proceedings, which are still pending.¹

8 C.F.R. § 103.6 states that a district director having custody of the file containing the immigration bond executed on Form I-352 shall determine whether the bond shall be declared breached or cancelled. The breach date for a voluntary departure bond is the 30th date after the date by which the alien was to depart. As the applicant was granted 60 days to voluntarily depart by the BIA on October 10, 2012, his failure to depart the United States by January 8, 2013 was a breach of the bond.

As noted, the applicant filed a motion to reopen with the BIA on January 8, 2013. However, the filing of a motion to reopen or a motion to reconsider after the time allowed for voluntary departure has already expired does not in any way impact the period of time allowed for voluntary departure. The granting of a motion to reopen or reconsider that was filed after the penalties under section 240(B)(d) of the Act had already taken effect, as a consequence of the alien's prior failure voluntarily to depart within the time allow, does not have the effect of vitiating or vacating those penalties, except as provided in section 240(B)(d)(2) of the Act. 8 C.F.R. § 1240.26(e)(2).

Accordingly, it is concluded that the alien failed to depart by the stipulated time, 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.

¹ The record reflects that on April 14, 2015, the IJ ordered the bonded alien removed from the United States and denied the application for cancellation of removal. A subsequent appeal has been filed by the bonded alien.