

(b)(6)

U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. 3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

[Redacted]

DATE: **MAY 20 2015**

Office: PORTLAND, OR

[Redacted]

IN RE: Obligor:  
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]

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,

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

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The delivery bond was declared breached by the Field Office Director, Enforcement and Removal Operations, Portland, Oregon, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record indicates that on July 2, 2009, the obligor posted a \$7,000 bond conditioned upon the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated July 25, 2014, was sent to the obligor via regular and certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of Immigration and Customs Enforcement (ICE) at 9:00 a.m. on September 4, 2014, at [REDACTED]. The obligor failed to present the alien, and the alien failed to appear as required. On September 5, 2014, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel asserts that the obligor did not receive a notice requiring her to deliver the alien on September 4, 2014. Counsel indicates at Part 3.1 on the appeal form that a brief and/or additional evidence would be submitted to the AAO within 30 days. To date, however, no further correspondence has been presented by counsel or the obligor. Therefore, the record must be considered complete.

The regulations provide that an obligor of a bond 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 to an immigration officer upon each and every request until 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).

In any proceeding which is initiated by the Service,<sup>1</sup> with proposed adverse effect, service of the initiating notice and of notice of any decision issued by a Service officer shall be accomplished by personal service, except in circumstances specified in section 239 of the Act. 8 C.F.R. § 103.8(c)(1).

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;

<sup>1</sup> 8 C.F.R. § 1.1(c) defines the term Service as inclusive of the Bureau of Citizenship and Immigration Services after March 1, 2003.

- (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.

As such, 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. § 103.8(a)(2). Furthermore, as reflected in the terms of the Immigration Bond (Form I-352), the obligor agreed that any notice to her in connection with the bond may be accomplished by mail, directed to her at the address she provided.

On appeal, counsel asserts that the obligor has indicated that she did not receive the demand notice. The evidence of record, however, indicates that the Notice to Deliver Alien dated July 25, 2014, was sent to the obligor at the address provided by the obligor, [REDACTED] via regular and certified mail. The notice demanded that the obligor produce the bonded alien on September 4, 2014. The record contains no evidence that the demand notice sent via regular mail was returned by the U.S. Postal Service as undeliverable. The Domestic Return Receipt (PS Form 3811), indicates the demand notice was signed for by a recipient at the obligor's address of record on July 30, 2014. 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), as well as with the terms of the immigration bond.<sup>2</sup> As the record establishes the Notice to Deliver Alien was properly served upon the obligor, we also find that the obligor's failure to deliver the alien pursuant to that Notice constitutes a substantial violation of the immigration bond.

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.

<sup>2</sup> We note that the obligor does not contest that she received the Notice - Immigration Bond Breached (Form I-323) that was sent to the same address as the Notice to Deliver Alien.