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**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF A-V-

DATE: FEB. 18, 2016

APPEAL OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT LOS ANGELES,  
CALIFORNIA FIELD OFFICE DECISION

FORM: ICE FORM I-352, IMMIGRATION BOND

The Obligor seeks to reinstate a delivery bond. *See* Immigration and Nationality Act (the Act) § 103, 8 U.S.C. § 1103. The U.S. Immigration and Customs Enforcement (ICE) Field Office Director, Los Angeles, California, declared the bond breached. The matter is now before us on appeal. The appeal will be dismissed.

The record indicates that on August 18, 2011, the Obligor posted a \$3,000 bond conditioned upon the delivery of the above referenced alien. A Form I-340, Notice to Obligor to Deliver Alien, dated January 6, 2015, was sent to the Obligor via certified mail. The notice demanded the Bonded Alien's surrender into the custody of ICE at 9:00 a.m. on February 9, 2015, at its sub-office at [REDACTED] CA [REDACTED]. The Obligor did not present the Bonded Alien, and the Bonded Alien did not appear as required. On March 20, 2015, the Director issued a Form I-323, Notice-Immigration Bond Breached, which informed the Obligor that the delivery bond had been breached.

On appeal, the Obligor asserts that he could not present the Bonded Alien as he returned to Mexico in October 2011.

A bonded alien who departs from the United States prior to the date demanded for surrender may be in substantial compliance with the terms of the delivery bond. *Matter of Don Donaldson's Key Bail Service*, 13 I&N Dec. 563 (Acting Reg'l Comm'r 1969). However, the burden is upon the alien or his surety to prove by probative evidence that the alien did leave the country prior to his surrender date. *Matter of Peerless Insurance Company*, 15 I&N Dec. 133 (Reg'l Comm'r 1974). The Obligor, however, has not presented any acceptable evidentiary documentation to support the Bonded Alien's departure in October 2011.

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).

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Delivery bonds are violated if the obligor does not 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'l Comm'r 1977).

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

In any proceeding which is initiated with the proposed adverse effect, 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 Obligor 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 Form I-340 dated January 6, 2015, was sent to the Obligor at [REDACTED] CA [REDACTED] via certified mail. This notice demanded that the Obligor produce the Bonded Alien on February 9, 2015. The U.S. Postal Service PS Form 3811, Domestic Return Receipt, indicates the Obligor received notice to produce the Bonded Alien on January 15, 2015. Consequently, 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 language used in the bond agreement indicates that the Obligor shall cause the Bonded 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 Bonded Alien is accepted by ICE for detention or removal.

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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 Director will not be disturbed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of A-V-*, ID# 15213 (AAO Feb. 18, 2016)