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U.S. Citizenship
and Immigration
Services



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FILE:

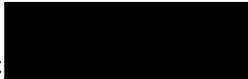


Office: LOS ANGELES

Date: APR 13 2005

IN RE:

Obligor:



Bonded Alien:

IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Los Angeles, California, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained.

The record indicates that on April 21, 2003, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated April 17, 2003, was issued granting the alien voluntary departure in lieu of removal on or before June 16, 2003. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On May 24, 2004, the BIA dismissed the appeal and granted the alien voluntary departure within 30 days from the date of the order. On September 27, 2004, the field office director concluded the bond had been breached.

On appeal, the alien asserts that he has an appeal pending before the Ninth Circuit Court of Appeals.

The record reflects that on June 22, 2004, the alien filed a motion to stay of removal and a petition for review before the Ninth Circuit Court of Appeals. On July 20, 2004, the Ninth Circuit Court of Appeal issued a temporary stay of removal. To date, the temporary stay of removal continues in effect.

Section 242(b)(3)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1252(b)(3)(B), provides that service of the petition for review does not stay the removal of an alien pending the court's decision on the petition, unless the court orders otherwise.

As previously mentioned, the 9th Circuit Court of Appeals issued stay of removal on May 19, 2004, four months earlier than the stipulated breach date. As the voluntary departure order was stayed, the breach of the voluntary departure bond is not valid. The bonded alien is allowed to remain in the United States under the condition of the voluntary departure bond until the court's mandate is issued, which is typically issued 52 days after its decision.

Therefore, the field office director's decision to breach the bond will be withdrawn, the appeal will be sustained, and the bond will be continued

ORDER: The appeal is sustained. The field office director's decision declaring the bond breached will be withdrawn and the bond continued in full force and effect.