

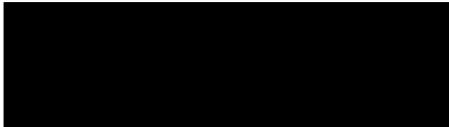


U.S. Citizenship
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FILE:



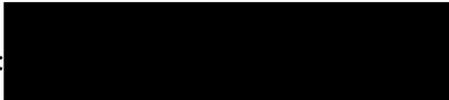
Office: LOS ANGELES

Date:

JAN 10 2007

IN RE:

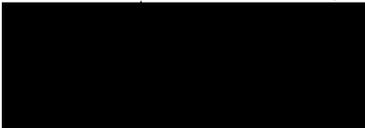
Obligor:
Bonded Alien:



IMMIGRATION BOND:

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

ON BEHALF OF OBLIGOR:



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.

Robert P. Wiemann, Chief
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 dismissed.

The record indicates that on February 2, 2005, the obligor posted a \$500.00 bond conditioned for his voluntary departure. On January 28, 2005, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before March 29, 2005. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On April 10, 2006, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On August 1, 2006, the field office director concluded the bond had been breached on June 9, 2006.

On appeal, counsel asserts the bonded alien never received the BIA's decision issued on April 10, 2006. Counsel asserts, "once we receive a BIA decision, [the alien] will file his appeal to the Ninth Circuit."

The record reflects that on September 21, 2006, the alien filed a motion to reopen before the BIA.

The U.S. Court of Appeals for the Ninth Circuit ruling in *Azarte v. Ashcroft*, 394 F.3d 1278 (9th Cir. 2005) states, in pertinent part, that where a timely motion to reopen has been filed and in which a stay of voluntary departure has been requested, the voluntary departure period is tolled during the time that the BIA is considering the motion.

The recent ruling, however, is not applicable to this case as the alien did not file a *timely* motion to reopen and there is no evidence the alien had filed a request for a stay of voluntary departure before the BIA.

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the field office director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for Immigration and Customs Enforcement to function in an orderly manner. After a careful review of the record, 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.