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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: LOS ANGELES Date: SEP 02 2009

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

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.

John F. Grissom
Acting 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. The obligor filed an appeal with a request for a waiver of the \$585 filing fee for Form I-1290B. The fee waiver request is now before the Administrative Appeals Office (AAO) for consideration. The fee waiver request will be denied.

The record indicates that on April 24, 2006, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before May 23, 2006. On March 30, 2006, the obligor posted a \$500.00 bond conditioned for her voluntary departure. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On August 29, 2007, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On November 27, 2007, the alien filed a motion to reconsider before the BIA. On December 12, 2007, the BIA denied the motion to reconsider. On January 23, 2008, the field office director concluded that the bond had been breached.

The affected party shall file an appeal on Form I-290B. Except as otherwise provided in this chapter, the affected party must pay the fee required by § 103.7 of this part. 8 C.F.R. § 103.3(a)(2)(i).

An application shall be regarded as properly filed when it is signed and executed and the required filing fee is attached or a waiver of the filing fee is granted. 8 C.F.R. § 103.2(a)(7)(i).

The regulation at 8 C.F.R. § 103.7(c) provides, in pertinent part, that the authority to grant a waiver of a filing fee falls to “[t]he officer of the Department of Homeland Security having jurisdiction to render a decision on the application, petition, appeal, motion or request.” The authority to adjudicate bond breach appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in her through the Homeland Security Act of 2002, Pub. L. 107-296. *See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003).* The AAO generally exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). Accordingly, the authority to grant or deny a fee waiver request on bond breach appeals lies with the AAO.

A fee relating to an appeal may be waived in any case under U.S. Citizenship and Immigration Services jurisdiction in which the obligor or alien is able to substantiate that he or she is unable to pay the prescribed fee. The person seeking a fee waiver must file his or her affidavit, or unsworn declaration made pursuant to 28 U.S.C. § 1746, (1) asking for permission to prosecute without payment of fee of the appeal, or request, and (2) stating his or her belief that he or she is entitled to or deserving of the benefit requested and the reasons for his or her inability to pay. 8 C.F.R. § 103.7(c).

In the instant case, the obligor submitted a request for fee waiver with the appeal; however, the obligor failed to credibly substantiate that she was unable to pay the required fee. The AAO may

not approve the fee waiver request as it did not meet the regulatory requirements outlined in 8 C.F.R. § 103.7(c). Accordingly, the fee waiver request is denied.

ORDER: The fee waive request is denied.