

(b)(6)

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Service  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: OCT 24 2013

Office: ST. PAUL

FILE: [REDACTED]

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:

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 voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, St. Paul, Minnesota, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on November 27, 2012, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before March 27, 2013. On November 30, 2012, the obligor posted a \$3000.00 bond conditioned for the above referenced alien. On March 19, 2013, the bonded alien filed a motion to reopen before the Executive Office for Immigration Review (EOIR), which was denied on March 21, 2013. On March 25, 2013, a Form I-246, Application for Stay of Removal, was filed by the alien, which was rejected. On April 24, 2013, the alien filed another Form I-246, which was granted on April 26, 2013 for six months. On May 14, 2013, the field office director concluded that the bond had been breached.

On appeal, citing 8 C.F.R. § 1240.26(e)(1), the obligor asserts that the conditions placed on the alien's voluntary departure do not apply if the alien has filed a motion to reopen prior to the voluntary departure period. The obligor states that the alien's stay of removal was granted one day before he was scheduled to depart the United States. The obligor states the alien has not breached the conditions of the immigration bond.

Contrary to counsel's assertion, the regulation at 8 C.F.R. § 1240.26(e)(1) provides, in part, the filing of a motion to reopen or reconsider prior to the expiration of the period allowed for voluntary departure has the effect of *automatically terminating the grant of voluntary departure*, and accordingly *does not toll, stay, or extend the period allowed for voluntary departure* under this section. (Emphasis added.)

The regulation at 8 C.F.R. § 1240.26(b)(3)(iii) provides, in part, if the alien files a post-decision motion to reopen or reconsider during the period allowed for voluntary departure, the grant of voluntary departure shall be terminated automatically, and the alternate order of removal will take effect immediately.

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.

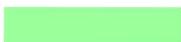
No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

The motion referred to by the obligor relates to a visa petition,<sup>1</sup> which has no bearing in this matter as bond proceedings are separate and distinct from any other proceeding. Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are

---

<sup>1</sup> The alien sought a motion to reopen to allow him to complete processing of a U visa petition filed March 11, 2013. The immigration court, however, lacked jurisdiction to consider a petition for U nonimmigrant status.

(b)(6)



*NON-PRECEDENT DECISION*

Page 3

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.