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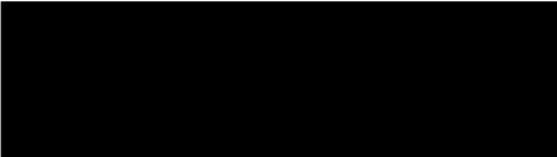
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

G3



FILE:



Office: COW Date:

AUG 20 2008

IN RE:

Obligor:

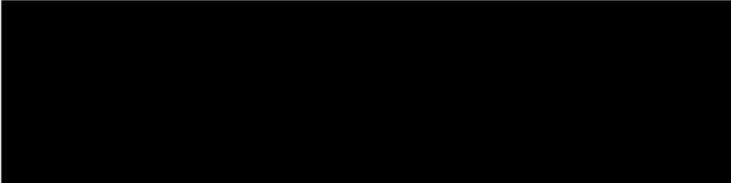
Bonded Alien:



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 Director, Headquarters, Bonds, Immigration and Customs Enforcement (ICE), and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on August 3, 2004, an immigration judge (IJ) issued an order granting the alien voluntary departure in lieu of removal on or before October 4, 2004. On August 5, 2004, the obligor posted a \$500.00 bond conditioned for her voluntary departure. On August 6, 2004, the bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On September 1, 2005, the BIA dismissed the appeal, and granted the alien voluntary departure within 60 days from the date of the order. On September 28, 2005, the alien filed a petition for review and a stay of removal before the United States Court of Appeals for the Ninth Circuit (Ninth Circuit). On April 20, 2007, the Ninth Circuit dismissed in part and denied in part the petition for review and issued its mandate on June 12, 2007. On June 23, 2008, the director concluded that the bond had been breached as the alien failed to depart the United States on or before July 15, 2007.

On appeal, counsel argues that the petition for review was still pending before the Ninth Circuit at the time the bond was breached. Counsel, however, does not provide any evidence to support his argument. The assertions of counsel do not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The record contains a printout from The Public Access to Court Electronic Records (PACER), which clearly indicates that the Ninth Circuit denied in part and dismissed in part the bonded alien's petition for review on April 20, 2007 and issued its mandate on June 12, 2007. As such, the director's decision of June 23, 2008, declaring the bond breach is valid

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 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 ICE 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 director will not be disturbed.

ORDER: The appeal is dismissed.