



U.S. Department of Justice

Immigration and Naturalization Service

G-1

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FILE:

Office: Harlingen

Date:

SEP 25 2000

IN RE: Obligor:
Bonded Alien:



IMMIGRATION BOND: Bond Conditioned for the Delivery of an Alien under § 103 of the
Immigration and Nationality Act, 8 U.S.C. 1103

IN BEHALF OF OBLIGOR:



Public Copy

INSTRUCTIONS:

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrence M. O'Reilly, Director
Administrative Appeals Office

NOTICE OF SERVICE MOTION TO REOPEN AND INTENT TO WITHDRAW THE DECISION SUSTAINING THE APPEAL

DISCUSSION: The delivery bond in this matter was declared breached by the District Director, Harlingen, Texas, and a subsequent appeal was sustained by the Associate Commissioner for Examinations on appeal. The matter is before the Associate Commissioner on a Service motion to reopen pursuant to 8 C.F.R. 103.5(a)(5)(ii).

The Service motion reflects that on May 13, 1999 the obligor posted a \$5,000 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated January 4, 2000, as well as a questionnaire, was sent to the obligor via certified mail, return receipt requested. The notice demanded the bonded alien's surrender into the custody of an officer of the Immigration and Naturalization Service (the Service) for removal at 10:00 a.m. on February 4, 2000 at PISPC, Route 3, Box 341, Los Fresnos, TX 78566. The receipt indicates that the obligor received the notice to produce the alien on January 6, 2000 and establishes that the district director properly served the notice in compliance with 8 C.F.R. 103.5(a)(2)(iv). The obligor failed to present the alien, and the alien failed to appear as required. On February 9, 2000, the district director informed the obligor that the delivery bond had been breached.

The Associate Commissioner sustained the appeal based on the record of proceeding provided by the Service indicating that the Service had failed to forward a questionnaire and photograph as required by the Amwest/Reno Settlement Agreement, entered into on June 22, 1995 by the Service and Amwest and Far West Surety Insurance Companies.

On motion, the Service states that a questionnaire and photograph were attached to the Form I-340 notice that was mailed to the obligor, as demonstrated by an attachment in the record. However, these documents were inadvertently omitted from the record of proceeding prepared for review by the Associate Commissioner.

Based on the documentation in the record and the Service's explanation on motion, the Associate Commissioner intends to reopen the matter, withdraw the order of August 10, 2000 and affirm the district director's decision declaring the bond breached.

Pursuant to 8 C.F.R. 103.5(a)(5)(ii), the obligor is granted 30 days in which to submit a brief in response to the Service's determination and to explain why he says that he did not get a questionnaire when the record now contains evidence that a questionnaire was sent.