U.S. Department of Homeland Security
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U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: HOUSTON Date: JAN 12 2005

IN RE: Obligor:
Bonded Alien: [redacted]

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

ON BEHALF OF OBLIGOR:

[redacted]

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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The delivery bond in this matter was declared breached by the Field Office Director, Detention and Removal, Houston, Texas, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that November 1, 2002, the obligor posted a $7,500 bond conditioned for the delivery of the above referenced alien. A Notice to Deliver Alien (Form I-340) dated June 8, 2004, 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 Immigration and Customs Enforcement (ICE) at 9:00 a.m. on July 29, 2004, at The obligor failed to present the alien, and the alien failed to appear as required. On August 5, 2004, the field office director informed the obligor that the delivery bond had been breached.

On appeal, counsel argues that the breach is invalid because ICE failed to comply with the Amwest/Reno Settlement Agreement with respect to the questionnaire.

The present record contains evidence that a properly completed questionnaire with the alien's photograph attached was forwarded to the obligor with the notice to surrender pursuant to the Amwest/Reno Settlement Agreement entered into on June 22, 1995 by the legacy Immigration and Naturalization Service and Far West Surety Insurance Company.

Delivery bonds are violated if the obligor fails to cause the bonded alien to be produced or to produce himself/herself to an immigration officer or immigration judge upon each and every written request until removal proceedings are finally terminated, or until the alien is actually accepted by the immigration officer for detention or removal. *Matter of Smith*, 16 I&N Dec. 146 (Reg. Comm. 1977).

The regulations provide that an obligor shall be released from liability where there has been "substantial performance" of all conditions imposed by the terms of the bond. 8 C.F.R. § 103.6(c)(3). A bond is breached when there has been a substantial violation of the stipulated conditions of the bond. 8 C.F.R. § 103.6(e).

8 C.F.R. § 103.5a(a)(2) provides that personal service may be effected by any of the following:

> (i) Delivery of a copy personally;
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> (ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;
>
> (iii) Delivery of a copy at the office of an attorney or other person including a corporation, by leaving it with a person in charge;
>
> (iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

The evidence of record indicates that the Notice to Deliver Alien dated June 8, 2004 was sent to the obligor at a certified mail. This notice demanded that the obligor produce the bonded alien on July 29, 2004. The domestic return receipt indicates the co-obligor received notice to produce the bonded alien on July 6, 2004. Consequently, the record clearly establishes that the notice was properly served on the obligor in compliance with 8 C.F.R. § 103.5a(a)(2)(iv).