



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF J-F-C-

DATE: OCT. 2, 2017

APPEAL OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT HOUSTON, TEXAS  
FIELD OFFICE DECISION

FORM: ICE FORM I-352, IMMIGRATION BOND

The Obligor seeks to reinstate a delivery bond. *See* Immigration and Nationality Act (the Act) section 103(a)(3), 8 U.S.C. § 1103(a)(3) (authorizing the Secretary of Homeland Security to prescribe forms of bond). An obligor posts an immigration bond as security for a bonded foreign national's compliance with bond conditions, and U.S. Immigration and Customs Enforcement (ICE) may issue a bond breach notice upon substantial violation of these conditions.

The Obligor executed a delivery bond on behalf of the Foreign National. ICE issued demand notices to the Obligor to deliver the Foreign National at a specific location, date, and time. When the Obligor did not deliver the Foreign National as instructed, ICE Field Office Director, Houston, Texas declared the bond breached.

On appeal, the Obligor claims that he did not receive the notices to deliver the Foreign National.

Upon *de novo* review, we will dismiss the appeal.

## I. LAW

A delivery bond creates a contract between the United States and an obligor. *Matter of Smith*, 16 I&N Dec. 146, 151 (Reg'l Comm'r 1977). An obligor secures his or her promise to deliver a foreign national by paying a designated amount in cash or its equivalent. *Id.* A breach occurs upon substantial violation of a bond's conditions. 8 C.F.R. § 103.6(e). Conversely, substantial performance of a bond's conditions releases an obligor from liability. 8 C.F.R. § 106(c)(3).

ICE must personally serve an obligor with notice demanding delivery of a Foreign National. 8 C.F.R. 103.8(c). Personal service may include mailing a notice by certified or registered mail, return receipt requested. 8 C.F.R. § 103.8(a)(2).

## II. ANALYSIS

The issue on appeal is whether the Obligor is entitled to bond reinstatement. The Director determined that the Obligor breached a delivery bond, as the Foreign National was not delivered

upon request. The Obligor states that the bond should be reinstated, as he did not receive notice to deliver the Foreign National. We find ICE issued proper notice to deliver the Foreign National and that the Obligor substantially violated the bond conditions, resulting in a bond breach.

A. Issuance of Notices to Deliver

In August 2011, the Obligor signed a Form I-352, Immigration Bond, agreeing to deliver the Foreign National to ICE upon demand. ICE issued three notices to the Obligor to deliver the Foreign National to Enforcement and Removal Operations. On November 19, 2015, ICE issued a notice to the Obligor by certified mail, return receipt requested, to deliver the Foreign National on [REDACTED] 2016 to the Enforcement and Removal Operations (ERO) ICE Houston Field Office. On January 12, 2016, ICE issued a notice to the Obligor by regular mail to deliver the Foreign National on [REDACTED] 2016, to the ICE ERO Houston Field Office. Then, on February 4, 2016, ICE issued a notice to the Obligor by regular mail to deliver the Foreign National on [REDACTED] 2016, to the ICE ERO Houston Field Office. When the Foreign National was not delivered to ICE on the listed dates, ICE sent the Obligor a Form I-323, Notice – Immigration Bond Breached, stating that the bond had been breached on [REDACTED] 2016.

The Obligor lists his address, the same address to which ICE’s notices to deliver were sent, stating that he never received notification to deliver the Foreign National. The Obligor contends that the only relevant mail that he received was the [REDACTED] 2016, breach notice, and that the Foreign National’s immigration attorney also did not receive any notifications. The Foreign National submitted an affidavit stating that neither he nor the Obligor received notice to present himself to ICE on any specific date.<sup>1</sup>

In sending a delivery notice to the Obligor, certified mail at the address listed on the immigration bond, ICE complied with the bond conditions and regulatory requirements. *See* 8 C.F.R. § 103.8(c) (requiring personal service in proceedings that the Department of Homeland Security initiates with proposed adverse effect). ICE’s November 2015 notice to the Obligor to deliver the Foreign National was returned to ICE as undeliverable. As such, ICE was required to take “additional reasonable steps to notify [the Obligor], if practicable to do so.” *See Jones v. Flowers*, 547 U.S. 220, 234 (2006) (stating notice requirements that a government agency must follow before depriving a person of property); *see also Echavarría v. Pitts*, 641 F.3d 92, 95 (5th Cir. 2011) (applying *Jones* to immigration bond proceedings).

And, after learning that the first certified mailing remained unclaimed, ICE took the additional steps of sending two additional notices by regular mail, on January 12, 2016, and February 4, 2016. ICE’s additional mailing attempts were “reasonably calculated, under all the circumstances, to apprise

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<sup>1</sup> A bond is a contract between the Obligor and ICE and, in accordance with the terms of that contract, the Obligor agreed to present the Foreign National at a designated time and place upon ICE request. Neither the Foreign National nor his attorney are parties to the bond contract and, as such, need not receive notice of any demands to deliver the Foreign National.

interested parties,” and satisfied the requirements of proper notice to the Obligor. *Jones*, 547 U.S. at 226 ((listing additional reasonable steps to inform a property owner of potential forfeiture after his non-receipt of a certified mailing, including regular mail).

#### B. Substantial Violation of Delivery Bond

A delivery bond is violated if the obligor does not cause the foreign national to be produced to an immigration officer upon each and every request until proceedings are finally terminated, or until the foreign national is actually accepted by the immigration officer for detention or removal. *See Matter of Smith*, 16 I&N Dec. at 146. As stated above, the Obligor was properly notified by ICE that the Foreign National must be delivered to the designated ICE ERO office in Houston, Texas on a certain date and time. The record indicates that the Obligor violated the bond’s terms when he did not produce the Foreign National at the ERO Houston Field Office upon request.

As stated, we will determine that a bond is breached only if there is a substantial violation of the bond conditions. Determining whether a bond violation is “substantial” under 8 C.F.R. § 103.6(e) requires consideration of a variety of factors. They include: the extent of the violation; whether it was intentional or accidental; whether it was in good faith; and whether the obligor took steps to comply with the terms of the bond. *Matter of Kubacki*, 18 I&N Dec. 43, 44 (Reg'l Comm'r 1981); *see also Aguilar v. United States*, 124 Fed. Cl. 9, 16 (2015). Substantial performance of a bond’s conditions releases an obligor from liability. *See* 8 C.F.R. § 106.6(c)(3).

In this case, the extent of the breach was significant as the Obligor did not deliver the Foreign National to the ICE ERO office as directed. The Obligor claims that the bond violation was not intentional, as he contends that he did not receive notice of the demand. However, there is no indication that the Obligor took steps to comply with the terms of the bond, even after the issuance of the breach notice of which the Obligor acknowledges receipt. The Obligor also provided no evidence that the Foreign National could not be delivered. As such, we find that, by not delivering the Foreign National upon written demand and breach notice, the Obligor substantially breached the terms of the bond.

Thus, for the foregoing reasons, we find that the Obligor is not entitled to reinstatement of the bond.

### III. CONCLUSION

As the Obligor substantially violated the conditions of the bond, we find that the bond has been breached.

**ORDER:** The appeal is dismissed.

Cite as *Matter of J-F-C-*, ID# 12460 (AAO Oct. 2, 2017)