



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

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

In Re: 35752247

Date: FEB. 4, 2025

Appeal of U.S. Immigration and Customs Enforcement Decision

ICE Form I-352, Immigration Bond

The Obligor seeks to reinstate a delivery bond. *See* Immigration and Nationality Act section 103(a)(3), 8 U.S.C. § 1103(a)(3). An obligor posts an immigration bond as security for a bonded alien'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 New York, New York, ICE Field Office declared the bond breached, concluding that the Obligor did not deliver the Bonded Alien as requested. On appeal, the Obligor asserts that she attempted to obtain proof that the Bonded Alien voluntarily departed the United States; however, the Bonded Alien became unable to locate or contact.

The Obligor bears the burden of proof to establish substantial performance of a bond's conditions. *Matter of Allied Fid. Ins. Co.*, 19 I&N Dec. 124, 129 (BIA 1984). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

A delivery bond creates a contract between the U.S. Government and an obligor. *United States v. Minn. Tr. Co.*, 59 F.3d 87, 90 (8th Cir. 1995); *Matter of Allied Fid. Ins. Co.*, 19 I&N Dec. at 125. An obligor secures its promise to deliver an alien by paying a designated amount in cash or its equivalent. 8 C.F.R. § 103.6(d). 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. § 103.6(c)(3). Several factors inform whether a bond violation is substantial: 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) (citing *Int'l Fidelity Ins. Co. v. Crosland*, 490 F. Supp. 446 (S.D.N.Y. 1980)); *see also Aguilar v. United States*, 124 Fed. Cl. 9, 16 (2015).

The record establishes the following procedural history. The Obligor executed a delivery bond with ICE in May 2012. In May 2024, the New York, New York, ICE Field Office sent an ICE Form I-340, Notice to Obligor to Deliver Alien, to the Obligor's address of record. The ICE Form I-340 requested the Obligor to deliver the Bonded Alien to that office on August 5, 2024, which we note is a reasonable notice period. Then, the New York, New York, ICE Field office sent an ICE Form I-323, Notice –

Immigration Bond Breached, to the Obligor's address of record, determining that she breached the terms of the delivery bond when she did not deliver the Bonded Alien at the requested time and place.

On appeal, the Obligor asserts that, after she informed the Bonded Alien of ICE's request to appear at the New York, New York, ICE Field Office, he told her he intended to depart the United States in July 2024, prior to the requested delivery date. However, the Obligor states that, when she attempted to obtain proof of the Bonded Alien's departure, "his phone was disconnected and I was not able to reach him." The record does not establish the Bonded Alien actually departed the United States, whether in July 2024 or otherwise. The Obligor requests the bond to be reinstated because she otherwise "exercised my due diligence since I paid [the Bonded Alien's] bond" until she did not deliver the Bonded Alien to ICE in August 2024 as requested.

The record supports the conclusion that the Obligor substantially violated the terms of the delivery bond. *See* 8 C.F.R. § 103.6(e); *see also Matter of Kubacki*, 18 I&N Dec. at 44. The extent of the violation is more than 180 days and ongoing. Although the Obligor asserts on appeal that the Bonded Alien did not comply with her attempt to deliver him to ICE as requested, the record does not establish how her failure to deliver the Bonded Alien was accidental or in good faith. In turn, although the Obligor took steps in an attempt to comply with ICE's request to deliver the Bonded Alien before the requested delivery date in August 2024, the record does not establish how she may have taken steps to comply with ICE's request to deliver him upon violating the delivery bond's terms, in order to limit the extent of the violation. Considering the totality of the circumstances, the record supports the conclusion that the Obligor substantially violated the terms of the delivery bond and the appeal will be dismissed. *See* 8 C.F.R. § 103.6(e); *see also Matter of Kubacki*, 18 I&N Dec. at 44.

ORDER: The appeal is dismissed.