



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

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

In Re: 23232112

Date: NOV. 29, 2022

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 noncitizen'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 Phoenix, Arizona ICE Field Office declared the bond breached, concluding that the bonded noncitizen had not been delivered upon written request. The matter is now before us on appeal.

In these proceedings, it is the Obligor's burden to establish substantial performance of a bond's conditions. *Matter of Allied Fid. Ins. Co.*, 19 I&N Dec. 124, 129 (BIA 1984). Upon *de novo* review, we will sustain the appeal.

## I. LAW

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 a noncitizen 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).

## II. ANALYSIS

On appeal, the Obligor does not assert that she has performed the terms of the bond. Instead, she states that she did not receive proper notice to deliver the bonded noncitizen. The sole issue on appeal is therefore whether ICE properly gave notice to the Obligor to deliver the bonded noncitizen.

ICE must personally serve an Obligor with notice demanding delivery of a noncitizen. 8 C.F.R. § 103.8(c). Personal service may include mailing a notice by certified or registered mail, return receipt requested, addressed to the Obligor at their last known address. 8 C.F.R. § 103.8(a)(2)(iv). When ICE becomes aware that the Obligor did not receive notice by certified mail, they must take reasonable

additional steps to notify the Obligor of the demand. *See Echevarria v. Pitts*, 641 F.3d 92, 94-95 (5th Cir. 2011) (applying *Jones v. Flowers*, 547 U.S. 220 (2006) to immigration bond proceedings). Sending the notice to the Obligor's last known address via regular mail after the certified mail attempt is considered sufficient to fulfill this requirement.

On February 3, 2022, ICE sent the Obligor an ICE Form I-340, Notice to Obligor to Deliver Alien, via certified mail, return receipt requested. This notice was returned as unclaimed. On March 9, 2022, ICE sent the Obligor another Form I-340 via regular mail, requesting that the noncitizen be delivered to the Phoenix, Arizona ICE Field Office on [REDACTED] 2022, for an interview. The noncitizen did not report to the field office on this date, and on May 3, 2022, ICE declared the bond breached.

The record reflects that both Forms I-340 were sent to an address located on [REDACTED] Drive, [REDACTED] Arizona [REDACTED]. However, when signing the Form I-352, Immigration Bond, the Obligor listed her address on [REDACTED] Drive, [REDACTED] Arizona [REDACTED]. There is no indication that the Obligor filed an ICE Form I-333, Obligor Change of Address, or any other documentation in the record that her address was located on [REDACTED] Drive, [REDACTED] Arizona.<sup>1</sup> Therefore, ICE did not send the delivery notices to the Obligor's last known address, as required at 8 C.F.R. § 103.8(a)(2)(iv).

Because ICE did not properly serve the Obligor with notice to deliver the noncitizen, the Obligor has not breached the bond's terms and the bond should be reinstated.

**ORDER:** The appeal is sustained.

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<sup>1</sup> The Obligor states on appeal that her current mailing address is at a third location. It is noted that she did not inform ICE of this change of address on Form I-333, as required. However, as ICE did not send the delivery notices to her address of record, we will not address the matter further.