



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

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

In Re: 24562655

Date: FEB. 1, 2023

Motion on Administrative Appeals Office 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 Chicago, Illinois ICE Field Office declared the bond breached, concluding that the Obligor did not deliver the bonded noncitizen to ICE upon written request. The Obligor appealed ICE's decision, which we dismissed. The Obligor now files a motion to reconsider our decision, and reiterates all prior arguments submitted in support of his 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 review, we will dismiss the motion.

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). We may grant a motion that satisfies these requirements and demonstrates eligibility for the requested immigration benefit.

In our prior decision, we noted that the Obligor did not provide sufficient evidence to establish that she did not substantially breach her obligations under the Immigration Bond. We concluded that the bonded noncitizen's statement, explaining that he mixed up the date on which he was to be delivered to ICE, lacked corroboration and therefore did not carry much probative value.

On motion, the Obligor asserts that the bonded noncitizen's mistake regarding the delivery date was minimal and incidental and made in good faith. She asserts that the bonded noncitizen is unable to provide further corroboration that he reported to ICE two days after his delivery date because the ICE officer he met with did not give him anything to confirm he reported, and that he was told he would receive a notice in the mail. On motion, the Obligor analogizes to the facts in *Matter of Kubacki*, 18 I&N Dec. 43, 44 (Reg'l Comm'r 1981), a case in which the appeal of a bond breach determination

was sustained. In *Kubacki*, the bonded individual overstayed his visa by 22 days because he mistakenly believed he could remain in the United States for 2 months.

We do not agree that *Kubacki* supports granting the Obligor's motion. Unlike in *Kubacki*, where the bonded noncitizen established that he relied on a letter from the Vice Consul authorizing him to remain in the United States for 2 months, and he actually left the United States within 2 months of his entry, here, the bonded noncitizen's mistaken belief that he should report to ICE on [] instead of [] is not supported by any evidence. Furthermore, while the bonded noncitizen asserts he could not provide corroborating information to prove he reported to ICE on [] 2021, his statement regarding his visit to ICE contains few details. For example, he does not provide the name of the ICE officer he spoke to on [] the details of their conversation, or what questions he was asked. Moreover, while he claims that he "inadvertently came to believe that my interview date was [] 2021, and not [] he provides no reasonable explanation for his mistaken belief. In *Kubacki*, the bonded noncitizen relied on a letter from the Vice Consul to form his mistaken belief, whereas here, no reasonable explanation for the mistake has been provided. Additionally, as we noted in our original decision, government records do not indicate he reported to ICE on [] [] 2021. *See Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988) (holding that any inconsistencies in the record must be resolved by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice.).

For the reasons discussed, the motion to reconsider is dismissed.

ORDER: The motion to reconsider is dismissed.