



**U.S. Department of Justice**

Executive Office for Immigration Review

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**Name: H [REDACTED], M [REDACTED] B [REDACTED]**

**A [REDACTED]-149**

**Date of this notice: 9/9/2019**

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

*Donna Carr*

Donna Carr  
Chief Clerk

Enclosure

Panel Members:  
Cole, Patricia A.  
Greer, Anne J.  
Noferi, Mark

Userteam: Docket

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*PL*

Falls Church, Virginia 22041

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File: A [REDACTED]-149 – Atlanta, GA

Date: **SEP - 9 - 2019**

In re: M [REDACTED] B [REDACTED] H [REDACTED]

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Johanna Cochran, Esquire

APPLICATION: Redetermination of custody status

The respondent, a native and citizen of Bangladesh, appeals from the Immigration Judge's December 7, 2018, bond order denying his request for a change in custody status.<sup>1</sup> The Department of Homeland Security (DHS) has not responded to the appeal. The reasons for the Immigration Judge's custody order are set forth in a bond memorandum, dated January 8, 2019.<sup>2</sup> The record will be remanded.

An Immigration Judge has wide latitude in deciding the factors to be considered in determining whether an appropriate bond may be set to ensure an alien's presence at future removal proceedings. *Matter of Guerra*, 24 I&N Dec. 37, 39-40 (BIA 2006). The respondent bears the burden of demonstrating that he merits release from custody. *Id.* To satisfy that burden, he must demonstrate that his release would not pose a danger to property or persons, and that he is not a flight risk. *Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009); *Matter of Adeniji*, 22 I&N Dec. 1102, 1111-13 (BIA 1999) (relying in part on 8 C.F.R. § 1236.1(c)(8)). A custody redetermination that has a "reasonable foundation" will not be disturbed on appeal. *Matter of Guerra*, 24 I&N Dec. at 39-40 (relying in part on *Carlson v. Landon*, 342 U.S. 524, 534 (1952)).

On appeal, the respondent argues that the Immigration Judge erred in denying his request for a change in custody status based on his finding that the respondent is an "extreme flight risk" because the respondent's sponsor was "not shown to have resources to support" him (Respondent's Br. at 2; IJ Bond Order, dated December 7, 2018). Specifically, the respondent claims that the Immigration Judge did not consider several financial documents that he submitted along with his

<sup>1</sup> The record reflects that the respondent's appeal from the Immigration Judge's January 22, 2019, decision finding his applications for asylum, withholding of removal, and protection under the Convention Against Torture to be abandoned, was sustained by this Board on June 14, 2019, and the record was remanded to the Immigration Judge for further proceedings and for the entry of a new decision.

<sup>2</sup> We note that the Immigration Judge's bond memorandum refers to the respondent's "Motion to Reconsider Bond," which was filed by the respondent December 11, 2018 (Bond Memo at 1; Respondent's Br. at 2; *see* Respondent's "Motion to Reconsider Decision on Bond," filed on December 11, 2018 (Unmarked Exh.)).

request for a bond redetermination, which show that his sponsor, his United States citizen sister, has over \$176,700 in savings, and thus has sufficient funds to provide for his support upon his release from custody (Respondent's Br. at 2; *see also* Respondent's "Additional Filing in Support of Motion for Bond Redetermination," filed on December 7, 2018, at 2-5 (Unmarked Exh.)). The respondent further claims that the DHS did not oppose his request for release from custody, but argued for a high bond amount (Respondent's Br. at 2).

The Immigration Judge's decision states without elaboration that the evidence submitted by the respondent, including his sponsor's bank statement, tax returns and other documentation, was considered by the Immigration Judge (Bond Memo at 1). This Board is unable to meaningfully review the Immigration Judge's decision absent sufficient factual findings to support the legal conclusion. *See Matter of S-H-*, 23 I&N Dec. 462 (BIA 2002). Since the Board may not engage in fact-finding in the course of deciding appeals, we find remand appropriate for further fact-finding by the Immigration Judge. *See* 8 C.F.R. § 1003.1(d)(3)(iv). Thus, we will remand the record to the Immigration Judge to address the factors relevant to the respondent's flight risk.

On remand, the parties should have the opportunity to supplement the record with any additional evidence and argument. We express no opinion regarding the ultimate outcome of the respondent's case. Accordingly, the following order will be entered.

ORDER: The record is remanded for further proceedings consistent with this decision and for the entry of a new decision.

  
FOR THE BOARD