



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: G [REDACTED], M [REDACTED] E [REDACTED]

A [REDACTED]-869

Date of this notice: 5/27/2020

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:
Creppy, Michael J.
Morris, Daniel
Liebowitz, Ellen C

Userteam: Docket

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Falls Church, Virginia 22041

File: A [REDACTED]-869 – Boston, MA

Date:

MAY 27 2020

In re: M [REDACTED] E [REDACTED] G [REDACTED]

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Glenn Louis Formica, Esquire

APPLICATION: Change in custody status

The respondent appeals from the Immigration Judge's bond order dated November 13, 2019, denying his request for a change in custody status. Section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a). The Immigration Judge issued a bond memorandum explaining his bond decision on December 17, 2019. The record will be remanded.

We review findings of fact determined by an Immigration Judge, including credibility findings, under a "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review questions of law, discretion, and judgment, and all other issues in appeals from decisions of Immigration Judges de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge denied a change in custody status after determining that the respondent did not establish that his release would not pose a danger to persons or property. Subsequent to the Immigration Judge's bond order dated November 13, 2019, a United States District Court certified a class and issued a permanent injunction declaring that aliens detained pursuant to section 236(a) of the Act:

[A]re entitled to receive a bond hearing at which the Government must prove the alien is either dangerous by clear and convincing evidence or a risk of flight by a preponderance of the evidence and that no condition or combination of conditions will reasonably assure the alien's future appearance and the safety of the community.

Brito v. Barr, 415 F. Supp. 3d 258, 271 (D. Mass. 2019).

The respondent has presented evidence that he is a post-hearing Class Member (Respondent's Br. at 4; Tab A), and has requested a remand. The DHS has not responded to the respondent's request for a remand. Our review of proceedings in this matter also shows that the Immigration Judge granted the respondent's request for adjustment of status on February 26, 2020. Under these circumstances, the record will be remanded for the Immigration Judge to consider the respondent's request for a change in custody status.

Accordingly, the following order will be entered.

ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.



FOR THE BOARD