



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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**Name: R [REDACTED] -M [REDACTED], M [REDACTED] ... A [REDACTED] -364**

**Date of this notice: 5/30/2019**

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:  
Mann, Ana  
Kelly, Edward F.  
Morris, Daniel

CILH0003  
Userteam: Docket

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Falls Church, Virginia 22041

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File: [REDACTED]-364 – San Diego, CA

Date: **MAY 30 2019**

In re: M [REDACTED] A [REDACTED] [REDACTED]-M [REDACTED]

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Murray D. Hilts, Esquire

APPLICATION: Change in custody status

The respondent, a native and citizen of Guatemala, has appealed the Immigration Judge's December 20, 2018, bond order.<sup>1</sup> The Immigration Judge issued a bond memorandum setting forth the reasons for her bond determination on January 10, 2019. The respondent's appeal will be sustained, and the record will be remanded.

We review the findings of fact, including the determination of credibility, made by the Immigration Judge under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including issues of law, discretion, or judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

On appeal, the respondent argues that the Immigration Judge erred in finding that the Department of Homeland Security (DHS) met its burden of establishing that the respondent presents a danger to the community. We acknowledge the Immigration Judge's reasoning. However, on the record before us, we will sustain the appeal. While we do not condone the respondent's driving under the influence (DUI) conviction, we note that there is no evidence of any other DUI conviction or of any other criminal conviction. *Cf. Matter of Siniauskas*, 27 I&N Dec. 207 (BIA 2018) (alien, who had a history of drinking and driving, had numerous DUI convictions, including ones that involved accidents). Moreover, there is no evidence in the record that the conviction involved injury to a person or damage to property.

In light of our determination regarding danger, we will remand the record to the Immigration Judge to otherwise determine the respondent's eligibility for bond. The parties may submit additional evidence on remand. Accordingly, the following order will be entered.

ORDER: The respondent's appeal is sustained, and the record is remanded to the Immigration Judge for further proceedings consistent with the foregoing decision.

  
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FOR THE BOARD

<sup>1</sup> Another Immigration Judge and the Board previously considered the respondent's eligibility for bond under a different burden of proof.