



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], T [REDACTED] A [REDACTED]

A [REDACTED]-364

Date of this notice: 7/24/2019

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:
Grant, Edward R.

Userteam: Docket

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U.S. Department of Justice
Executive Office for Immigration Review

Decision of the Board of Immigration Appeals

Falls Church, Virginia 22041

File: A [REDACTED]-364 – New York, NY

Date:

JUL 24 2019

In re: T [REDACTED] A [REDACTED] G [REDACTED]

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Conor T. Gleason, Esquire

ON BEHALF OF DHS: Elizabeth Collins
Assistant Chief Counsel

APPLICATION: Change in custody status

The Department of Homeland Security (DHS) has filed an appeal from the Immigration Judge's bond decision dated September 26, 2018, setting the respondent's bond at \$3,000.¹ Both parties have filed appeal briefs. The appeal will be dismissed.

The Board reviews an Immigration Judge's findings of fact under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i); *Matter of S-H-*, 23 I&N Dec. 462, 464-65 (BIA 2002). All other issues in appeals from decisions of Immigration Judges are reviewed de novo. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge found that the respondent met his burden to show through clear and convincing evidence that he was not a danger to property or persons (IJ at 2-3). 8 C.F.R. § 1003.19(h)(3). The Immigration Judge further considered the evidence that the respondent was a flight risk against other evidence and determined that a bond of \$3,000 was warranted to ensure the respondent's appearance for future hearings (IJ at 3).

An alien in bond proceedings has the burden of demonstrating that he merits release. *Matter of Fatahi*, 26 I&N Dec. 791, 793-95 & n.3 (BIA 2016); *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). To carry that burden, the alien must demonstrate that his release would not pose a danger to persons or property, among other things. *Matter of Fatahi*, at 793-94; *Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009); *Matter of Adeniji*, 22 I&N Dec. 1102, 1111-13 (BIA 1999). An Immigration Judge has broad discretion to consider any matter he or she deems relevant,

¹ The Immigration Judge set forth the factual findings and rationale supporting this decision in a bond memorandum dated October 18, 2018.

including circumstantial evidence, when determining whether an alien's release on bond is permissible or advisable, and therefore a custody redetermination that has a "reasonable foundation" will not be disturbed on appeal. *See Matter of Guerra*, at 39-40.


On appeal, the DHS argues that the Immigration Judge erred in finding that the respondent met his burden of showing he is not a danger to the community. The DHS relies on evidence concerning the respondent's arrests for assault in the 3rd degree and criminal contempt, as well as the respondent's conviction for the criminal contempt offense (DHS Appeal Br. at 3).

We affirm the Immigration Judge's decision that the respondent met his burden to show he is not a danger to the community. As noted previously, the Immigration Judge has broad discretion to decide which factors to consider and how much weight to give those factors as long as the decision is reasonable. The Immigration Judge in this matter relied on the testimony of the respondent's fiancée concerning the respondent's arrests, which involved the respondent's conduct toward her. She testified that she had lied to police, and the Immigration Judge found that testimony credible. There is no clear error in that finding, particularly in light of the Immigration Judge's findings as to the fiancée's history of mental health issues (IJ at 3).

We also affirm the Immigration Judge's decision to set a bond in the amount of \$3,000. After considering the circumstances of the respondent's criminal history, his ties to his partner and United States citizen daughter, his support for his family, his other ties to the community, his lawful admission to the United States, and his application for relief from removal, we agree that a \$3,000 bond was sufficient to ensure the respondent's appearance for immigration hearings or removal from the United States. *See Matter of Sugay*, 17 I&N Dec. 637, 638-39 (BIA 1981).

Accordingly, the following order will be entered.

ORDER: The Department of Homeland Security's appeal is dismissed.



FOR THE BOARD