



U.S. Department of Justice

Executive Office for Immigration Review

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Name: R [REDACTED] -C [REDACTED] C [REDACTED]

A [REDACTED] -675

Date of this notice: 3/20/2018

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:
Kelly, Edward F.
Pauley, Roger
Snow, Thomas G

Userteam: Docket

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Don

Falls Church, Virginia 22041

File: [REDACTED] 675 – Cleveland, OH

Date:

MAR 20 2018

In re: C [REDACTED] R [REDACTED] -C [REDACTED]

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: George E. Fee, Esquire

APPLICATION: Change in custody status

The respondent appeals the Immigration Judge's December 26, 2017, bond determination ordering the respondent released on \$30,000.00 bond. On January 10, 2018, the Immigration Judge issued a bond memorandum explaining the reasons for his determination. The respondent's appeal will be sustained.

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).

The instant custody proceeding is governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a). The Immigration Judge made no determination regarding whether the respondent poses a danger to the community. However, there was no argument raised by the Department of Homeland Security that the respondent poses any danger and there is no evidence of record regarding any danger. *See Matter of Urena*, 25 I&N Dec. 140 (BIA 2009) (holding that only if an alien has established that he would not pose a danger to property or persons should an Immigration Judge decide the amount of bond necessary to ensure the alien's presence at proceedings to remove him from the United States); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *Matter of Adeniji*, 22 I&N Dec. 1102, 111-13 (BIA 1999); *Matter of Drysdale*, 20 I&N Dec. 815, 817 (BIA 1994); 8 C.F.R. § 1236.1(c)(3). The Immigration Judge only evaluated the level of flight risk the respondent poses and granted bond in the amount of \$30,000.00. The respondent disputes the justification for setting such a high bond amount.

We agree with the Immigration Judge that the respondent poses some flight risk because he submitted no identity documents and he has limited relief from removal. The Immigration Judge noted that the respondent claimed that he planned to seek asylum, but he was unable to articulate the bases of such a claim. The Immigration Judge also considered that the respondent claimed that if he were released from custody, he planned to live with his spouse and their two children, who are also in removal proceedings. There may have been some confusion as to whether the respondent had a fixed address to live if released from custody. The Board also notes that the record indicates that the respondent has only been in the United States since about October 11, 2017, and does not appear to have strong community ties. However, the respondent has no criminal history in the United States, which could have a negative impact on his eligibility for

relief from removal. Additionally, he has no negative immigration history besides his initial illegal entry and there is no evidence that he failed to appear for any of his prior immigration proceedings.

In considering the positive and negative factors, we find that \$30,000.00 is an unreasonably high bond amount. Accordingly, we find that the respondent's level of flight risk warrants a reduced bond in the amount of \$10,000.00 to mitigate the flight risk concerns implicated in this case.

Accordingly, the following order will be entered.

ORDER: The Immigration Judge's order is vacated and the respondent is ordered released on bond of \$10,000.00.



FOR THE BOARD

Board Member Tom G. Snow respectfully dissents without opinion.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
CLEVELAND, OHIO

IN THE MATTER OF)

O [REDACTED] R [REDACTED] - O [REDACTED])

In Bond Proceedings)

Case Number: [REDACTED] 675

DECISION OF THE IMMIGRATION JUDGE

Respondent is a native and citizen of Mexico. Following a custody redetermination hearing on December 26, 2017, the Court set bond for Respondent in the amount of \$30,000. Respondent has appealed this determination.

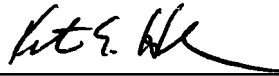
Section 236(a) of the Immigration and Nationality Act (Act) gives an immigration judge the authority to grant bond if he concludes, in the exercise of broad discretion, that the alien's release on bond is warranted. Matter of D-J-, 23 I&N Dec. 572, 575-76 (A.G. 2003). To be granted bond, the alien bears the burden to demonstrate he does not pose a danger to society and would be likely to appear for future proceedings. Matter of Adeniji, 22 I&N Dec. 1102, 1111-13 (BIA 1999); Matter of D-J-, supra at 576. In determining what amount of bond, if any, would ensure a respondent's appearance in court, the following factors should be considered: employment history, length of residence in the community, family ties, a record of nonappearance at court proceedings, manner of entry, previous criminal and immigration law violations, and potential eligibility for relief from removal. See Matter of Andrade, 19 I&N Dec. 488 (BIA 1987).

At his bond hearing, Respondent claimed that if he were released from custody he planned to live with his spouse who is a citizen of Guatemala who is also in removal proceedings. Respondent claimed to have two children who are also citizens of Guatemala with no legal permission to be in the United States.

Respondent claimed that he planned to seek asylum, but was unable to articulate who he fears in Guatemala or why he is afraid to return. Respondent also provided no identity documents for himself.

In consideration of all of the above, the Court finds that a bond in the amount of \$30,000 is appropriate.

Dated this 10 day of January, 2018.



Keith E. Hunsucker
Immigration Judge

Immigrant & Refugee Appellate Center, LLC | www.irac.net

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)

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