



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

Paredes, Julio
THE LAW OFFICES OF JULIO PAREDES,
PLLC
1114 E PIONEER PKWY, STE 16B
ARLINGTON, TX 76010

DHS/ICE Office of Chief Counsel
Montgomery Proc Ctr, 806 Hilbig Rd
Conroe, TX 77301

Name: A [REDACTED]-F [REDACTED], A [REDACTED] A [REDACTED]-282

Date of this notice: 6/16/2020

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:
Donovan, Teresa L.
Kelly, Edward F.
Pepper, S. Kathleen

Userteam: Docket

For more unpublished decisions, visit
www.irac.net/unpublished/index

Falls Church, Virginia 22041

File: [REDACTED]-282 – San Antonio, TX

Date: JUN 16 2020

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

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Julio Paredes, Esquire

APPLICATION: Change in custody status

The respondent appeals the Immigration Judge's November 13, 2019, bond order denying his request for a change in custody status. The Immigration Judge issued a bond memorandum on January 8, 2020, setting forth the reasons for the bond decision. The Department of Homeland Security (DHS) has not filed a response on appeal. The 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).

An alien in a custody determination under section 236(a) of the Act must establish to the satisfaction of the Immigration Judge and this Board that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight. *See Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). The Immigration Judge found that the respondent poses a flight risk such that no amount of bond will ensure his appearance at future immigration proceedings. In assessing the respondent's flight risk, the positive and negative factors, including the respondent's length of residence, his community ties, and his family ties in the United States, are considered.

The Immigration Judge considered the respondent's testimony that his mother's nephew, Mr. M [REDACTED], has the financial ability to support him and that the respondent would attend all future hearings (Bond Mem. at 3). The respondent further indicated that his wife is being supported by Mr. M [REDACTED] and that he would reside in Spring Hill, Florida upon his release. *Id.* The Immigration Judge found that the affidavit from Mr. M [REDACTED] indicates that the respondent is a cousin from Mr. M [REDACTED]'s father's side of the family, which contradicts the respondent's testimony that Mr. M [REDACTED] is his mother's nephew. The Immigration Judge also found that there were discrepancies between Mr. M [REDACTED]'s 2018 federal tax return indicating he is single with no dependents, and the respondent's testimony that Mr. M [REDACTED] resides with his wife and youngest daughter, while his two oldest daughters reside with their mother. The Immigration Judge did not consider the respondent's assertion that he is eligible for asylum. The Immigration Judge indicated he is not convinced that the respondent's family ties would ensure his appearance, nor is he persuaded that Mr. M [REDACTED] has the ability to sponsor the respondent if he is released on bond.

On appeal, the respondent contends that the Immigration Judge erred in denying his request for a bond. The respondent explains that the Immigration Judge erred in finding a contradiction regarding the family ties between the respondent and Mr. M because the respondent's mother is the sister of Mr. M's father, making them cousins. The respondent asserts that he has a fixed address if he is released from custody, noting that Mr. M now resides in Spring Hill, Florida, although he was residing in Tampa, Florida, when he filed his 2018 income tax return in early 2019. The respondent also states that Mr. M chose to file his tax return as single and with no dependents, although at the time of the bond hearing, the respondent testified that Mr. M was residing with his spouse and child in Spring Hill, Florida. The respondent argues that his asylum claim and all other factors far outweigh any minimal risk of flight and that he should be granted bond in the amount of \$1,500.

In reviewing the Immigration Judge's decision in this matter, we apply our decision in *Matter of R-A-V-P-*, 27 I&N Dec. 803 (BIA 2020), in which we affirmed an Immigration Judge's decision denying discretionary bond to a recent arrival and asylum applicant who evaded inspection, stated no past or present claim to legal status in the country, and who had no close ties to the United States. We view the present case as distinguishable, where the respondent has presented evidence and argues that a United States citizen family member is willing and able to sponsor and support him. Moreover, we note that the Immigration Judge made factual errors regarding the respondent's family ties in the United States, and he did not consider the respondent's favorable credible fear interview (Bond Mem. at 3-4; Respondent's Appeal Brief at 12-14, 21-25). While we agree that the respondent presents some risk of flight, we disagree that no bond amount can mitigate such risk. Under these circumstances, we will sustain the respondent's appeal, grant the respondent's request for a change in custody status and order him released on bond in the amount of \$3,000 to ensure the respondent's appearance at future hearings or for removal.

Accordingly, the following orders are entered.

ORDER: The appeal is sustained.

FURTHER ORDER: The respondent's request for a change in custody status is granted and the respondent is ordered released from custody upon payment of bond in the amount of \$3,000.

Teresa L. Doman

FOR THE BOARD