



**U.S. Department of Justice**

Executive Office for Immigration Review

*Board of Immigration Appeals  
Office of the Clerk*

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Falls Church, Virginia 22041

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Ft. Snelling , MN 55111**

**Name: D [REDACTED], A [REDACTED]**

**A [REDACTED]-192**

**Date of this notice: 10/9/2018**

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:  
Adkins-Blanch, Charles K.  
Mann, Ana  
Snow, Thomas G

Userteam: Docket

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Falls Church, Virginia 22041

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File: [REDACTED] 192 – Fort Snelling, MN

Date:

**OCT - 9 2018**

In re: A [REDACTED] D [REDACTED] -J [REDACTED]

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Patrick A. Uke, Esquire

ON BEHALF OF DHS: Kenneth R. Knapp  
Assistant Chief Counsel

APPLICATION: Redetermination of custody status

The respondent is a native and citizen of Mexico. The Department of Homeland Security (DHS) appeals from the Immigration Judge's decision dated October 16, 2017, granting the respondent a release from custody upon posting a \$7,000 bond.<sup>1</sup> The appeal will be dismissed.

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 DHS argues that the respondent did not satisfy his burden to establish that he is not a danger to the community. *See Matter of Urena*, 25 I&N Dec. 140 (BIA 2009); *Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999). At the time of the hearing, the respondent was facing a criminal charge for domestic assault on his spouse, by strangulation, in violation of Minn. Stat. § 609.2247.2. The Immigration Judge found that the respondent established that he posed no threat to the community noting that the criminal court imposed several restrictions on the respondent, which included, most notably, that he have no contact with the victim (IJ at 3). The Immigration Judge further noted that the respondent's arrest was his first encounter with law enforcement.

Subsequent to the hearing, the criminal court dismissed the respondent's domestic assault charge and instead convicted him for disorderly conduct. *See Matter of Siniauskas*, 27 I&N Dec. 207 (BIA 2018) (stating that an Immigration Judge should consider the nature and circumstances of the alien's criminal activity, including any arrests and convictions, to determine if the alien is a danger to the community, but family and community ties generally do not mitigate an alien's dangerousness). The respondent is no longer required to stay away from his wife and is required to attend domestic counselling, which he may do if he is released from custody. In light of the


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<sup>1</sup> The Immigration Judge issued the Bond Memorandum on November 1, 2017.

foregoing, we affirm the Immigration Judge's determination regarding the respondent's eligibility for bond.

Accordingly, the following order is entered.

ORDER: The DHS's appeal is dismissed.

  
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FOR THE BOARD