



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: C [REDACTED] A [REDACTED], P [REDACTED]

A [REDACTED]-143

Date of this notice: 2/5/2019

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:
Adkins-Blanch, Charles K.
Kelly, Edward F.
Mann, Ana

Userteam: Docket

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Falls Church, Virginia 22041

File: A-143 - Houston, TX

Date:

FEB - 5 2019

In re: P-C-A-143 a.k.a. [REDACTED]

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Mario Caballero, Esquire

APPLICATION: Change in custody status

The respondent, a native and citizen of Guatemala, appeals from the Immigration Judge's order dated September 11, 2018, which denied his bond request. The reasons for the decision are set forth in the Immigration Judge's bond memorandum dated October 10, 2018. The Department of Homeland Security has not replied to the respondent's brief on appeal. The 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, and judgment, under the de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

Based on the facts presented, we will sustain the respondent's appeal of the Immigration Judge's determination that he has not met his burden to prove that he is not a danger to the community (persons or property). Section 236(a) of the Act, 8 U.S.C. § 1226(a). *See Matter of Adeniji*, 22 I&N Dec. 1102 (BIA 1999); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). The record indicates that the respondent has a June 28, 2018, conviction for driving while intoxicated (IJ Memo (unpaginated); Bond Exh. 2 at Tab F). Driving under the influence is a significant adverse factor in assessing danger to the community in bond proceedings. *Matter of Siniauskas*, 27 I&N Dec. 207, 209 (BIA 2018). However, there is no evidence of aggravating factors associated with the offense or other criminal history during the respondent's long residence in the United States (IJ Memo (unpaginated); Respondent's Br. (unpaginated)). Under the circumstances, the record does not support the Immigration Judge's danger determination. We will remand the record for the Immigration Judge to conduct an assessment as to flight risk. Accordingly, the following orders will be entered.

ORDER: The respondent's bond appeal is sustained.

FURTHER ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.


FOR THE BOARD

Cite as: P-C-A-, AXXX XXX 143 (BIA Feb. 5, 2019)