



U.S. Department of Justice

Executive Office for Immigration Review

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Name: HERNANDEZ MENDOZA, JOSE

A 208-090-199

Date of this notice: 8/4/2016

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.
Malphrus, Garry D.
Geller, Joan B

schwarzA
Userteam: Docket

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Falls Church, Virginia 22041

File: A208 090 199 – Dallas, TX

Date:

AUG - 4 2016

In re: JOSE HERNANDEZ MENDOZA

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Nicolas Chavez, Esquire

APPLICATION: Custody redetermination

The respondent appeals from an Immigration Judge's February 9, 2016, decision denying his request for release on bond.¹ See section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a); see also 8 C.F.R. §§ 1003.19, 1236.1(d). The Department of Homeland Security ("DHS") has not filed a response to the respondent's appeal. The request for oral argument is denied. The record will be remanded.

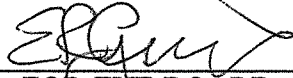
The Immigration Judge denied bond after finding that the respondent is a danger to the community. The Immigration Judge cited the respondent's September 9, 2015, conviction for driving while intoxicated ("DWI") with a sentence of 180 days in jail with 18 months probated (Exh. 1, Tab 13). The Immigration Judge further found that the respondent stated that he drove after drinking because it seemed easy, which indicates that he is a danger to others (I.J. at 2-3).

The respondent has attached new evidence on appeal to support his argument that his due process rights were violated because the interpreter at his bond hearing erroneously translated his statement in Spanish, "Se me hizo fácil" as "that it seemed easy," but that the phrase is a Mexican idiomatic expression which should be translated as "I didn't think about it" or "I didn't really think about the consequences." The Immigration Judge relied on the interpreter's translation of the phrase, finding that when asked why he drove after drinking the respondent answered "that it seemed easy." (I.J. at 2). This alleged mistranslation formed the basis of the Immigration Judge's finding that the respondent's response was alarming and that he is a danger to the community. Because the alleged misinterpretation goes to the issue of the respondent's acceptance of responsibility and his likelihood of reoffending, we conclude that a remand is warranted for the Immigration Judge to address the respondent's evidence submitted on appeal and for the entry of a new decision.

Accordingly, the following order will be entered.

¹ The reasons for the Immigration Judge's decision are set forth in a bond memorandum dated March 16, 2016.

ORDER: The respondent's appeal is sustained, and the record is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.



FOR THE BOARD