



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Name: G [REDACTED], Y [REDACTED]

A [REDACTED]-227

Date of this notice: 9/24/2018

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.
Kelly, Edward F.
Snow, Thomas G

Userteam: Docket

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Falls Church, Virginia 22041

File: A-227 – Atlanta, GA

Date:

SEP 24 2018

In re: Y G

IN BOND PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Yumei Wu, Esquire

ON BEHALF OF DHS: Greg Radics
Assistant Chief Counsel

APPLICATION: Change in custody status

The respondent, a native and citizen of China, has appealed from the Immigration Judge's decision dated May 3, 2018. The Immigration Judge issued a bond memorandum on June 14, 2018, setting forth the reasons for the bond decision. The Department of Homeland Security has opposed the appeal. The record will be remanded.

We review the findings of fact, including the determination of credibility of testimony, under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i); *Matter of S-H-*, 23 I&N Dec. 462, 464-65 (BIA 2002). We review all other issues, including issues of law, discretion, and judgment, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii).

The Immigration Judge denied the respondent's request for a change in custody status based on his finding that the respondent did not meet her burden of establishing that she would not be a flight risk if she is released on bond. On appeal, the respondent argues that she is not a flight risk.

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 burden is on the alien to show that he or she merits release on bond. *See* 8 C.F.R. § 1003.19; 8 C.F.R. § 236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). An Immigration Judge may properly consider any adverse information in assessing whether an alien's release on bond is warranted. *See Matter of Guerra*, 24 I&N Dec. at 40.

In the instant case, while we acknowledge the Immigration Judge's reasoning and agree that the respondent constitutes some risk of flight, we are not persuaded that no bond whatsoever should be available to the respondent. In this regard, we note the respondent's husband was granted asylum and he is a lawful permanent resident. Moreover, he has filed a Form I-730, refugee asylee relative petition, on her behalf. Further, the respondent's applications for relief remain pending. In addition, the respondent has a fixed address and she will reside with her husband. Under these circumstances, we will remand the record for the Immigration Judge to set a reasonable bond for the respondent. On remand, both parties may submit additional evidence.

Cite as: Y-G-, XXXX XXX 227 (BIA Sept. 24, 2018)

Accordingly, the following order will be entered.

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