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DETAINED

PRO BONO COUNSEL FOR RESPONDENT

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
AURORA, COLORADO

In the matter of:

LAST NAME, First Name

In Custody Proceedings

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File No.: A000 000 000

**RESPONDENT'S BRIEF AND EVIDENCE
IN SUPPORT OF CUSTODY REDETERMINATION**

Immigration Judge: NAME

Bond Hearing Date: DATE AND TIME

I. Introduction

Respondent, NAME, by and through undersigned *pro bono* counsel, hereby requests that this Court grant him release on recognizance or on a reasonable bond. Respondent is not a danger to persons or property, he does not pose a flight risk, and he is not a danger to national security. *See Matter of Guerra*, 24 I&N Dec. 37, 38 (BIA 2006). Accordingly, he merits release from custody.

II. Statement of the Facts

Respondent was born on DATE in Mexico. He entered the United States in approximately 1999 and has resided in the state of Utah since that time, *see* Tab Q. He and his long-term partner have one United States Citizen (“USC”) daughter, who is six-years-old. *See* Tab E. Respondent’s daughter suffers from epilepsy, and Respondent’s financial and emotional support is integral to her wellbeing. *See* Tab P. Respondent also lives with and helps provide for his two USC step-sons, who are eight-years-old and twelve-years-old, respectively. *See* Tabs F and G.

Respondent’s criminal history consists of one DUI conviction in Utah from 2008. *See* Tab A. He served his sentence, completed probation, and had no contact with law enforcement afterwards until he was apprehended by Immigration and Customs Enforcement on DATE.

Respondent has been in the custody of the Department of Homeland Security since DATE.

III. Argument

In *Matter of Guerra*, 24 I&N Dec. at 40, the Board of Immigration Appeals determined that an Immigration Judge may look to the following factors in deciding whether an individual merits release from custody, as well as the appropriate amount of bond: (1) whether the

individual has a fixed address in the United States; (2) length of residence in the United States; (3) family ties in the United States; (4) employment history; (5) record of appearance in court; (6) criminal record; (7) history of immigration violations; (8) any attempts to flee prosecution; and (9) manner of entry to the United States. The Immigration Judge has broad discretion in deciding the factors that he or she may consider in custody redeterminations and may choose to give greater weight to some factors, as long as the decision is reasonable. *Id.*

Under the *Guerra* analysis, and as discussed below, Respondent's positive factors significantly outweigh any negative factors. Accordingly, the Court should grant *de minimus* bond.

A. Respondent is not a danger to persons or property

Respondent is not a danger to the community. He has taken responsibility for and been fully rehabilitated from his DUI conviction in 2008. Respondent complied with all aspects of his DUI sentence including (1) paying all associated fines and fees, *see* Tab B, (2) completing a victims' impact class, *see* Tab C, and (3) completing a DUI program, *see* Tab D. Respondent also completed his probation and 48 hours of community service. Since that time, Respondent has had no additional arrests and has dedicated himself to the care of his long term-partner, his USC daughter, and his two USC step-children.

Letters from members of Respondent's community describe him as "an exemplary person" and a "loving husband and wonderful father," Tab I, as "a man of great integrity," Tab K, and as "a very responsible, hard worker," Tab L.

B. Respondent does not pose a flight risk

Respondent does not pose a flight risk because he (1) has deep connections in his community, (2) is the primary financial provider for his family of four, and (3) is *prima facie* eligible for cancellation of removal under INA § 240(A)(b).

Respondent has lived in Utah for almost two decades. *See* Tab Q. He is deeply *i*engrained in his community, as demonstrated by letters of support indicating that he attends and plays music at his local church, *see* Tab I, and has been friends with various neighbors for more than 10 years, *see* Tab N. Should he be released on bond, Respondent intends to reside at his permanent residence, a trailer that he owns, located at **ADDRESS**. *See* Tab O.

Additionally, Respondent is the primary financial provider for his family, including his long-term partner, USC daughter, and two USC step-sons. Just as importantly, Respondent provides essential emotional support to his family. As one of his step-sons explains, “we all need [Respondent] and love [him].” *See* Tab H. Respondent is extremely motivated to defend his removal case so that he can continue to support his family financially and otherwise. Upon release on a bond, Respondent would return to his previous place of employment. *See* Tab Q.

Finally, Respondent provided evidence that he is *prima facie* eligible for cancellation of removal under INA § 240(A)(b). He has resided continuously in the United States since 1999, *see* Tab Q, and he is a person of good moral character, *see* Tabs H–N. His six-year-old USC daughter suffers from epilepsy and Respondent’s financial and emotional support is integral to her care and wellbeing. *See* Tab P. Respondent’s daughter would suffer exceptional and extremely unusual hardship if her father were removed to Mexico. *See id.*

C. Respondent is not a threat to national security

Respondent is an upstanding member of his community with no record indicating that he represents a threat to national security.

IV. Conclusion

Respondent is an integral member of his family and his community. He has lived and worked in the United States for close to twenty years, supports his U.S. citizen daughter, stepsons and partner, and is by all accounts an upstanding member of his community. He was convicted of a single criminal offense about a decade ago, and has taken full responsibility for his actions and for rehabilitating himself. The record clearly reflects that he is neither a flight risk nor a danger to the community. These factors should weigh heavily in this Court's determination as to whether Respondent merits release. *See Matter of Guerra*, 21 I&N Dec. at 40.

For these reasons, Respondent contends that he has met his burden of demonstrating that he merits release on recognizance or a reasonable bond.

Dated: DATE

Respectfully submitted,

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PRO BONO COUNSEL FOR RESPONDENT

Tab	INDEX OF DOCUMENTATION SUBMITTED IN SUPPORT OF CUSTODY REDETERMINATION Client's Name A000 000 000	Page(s)
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CERTIFICATE OF SERVICE

I, ATTORNEY, hereby certify that on DATE, I served a true and correct copy of the foregoing **Respondent's Brief and Evidence in Support of Custody Redetermination** to the Department of Homeland Security Office of the Chief Counsel via email at the following address:

DEN.OCC.E-Service@ice.dhs.gov

ATTORNEY NAME