



DETAINED

Attorneys for Respondent

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
ARLINGTON, VIRGINIA**

In the Matter of _____
Respondent,
In removal proceedings

File No.: A _____

Immigration Judge Thomas G. Snow

Next Hearing: _____
Bond Hearing

**MOTION AND MEMORANDUM OF LAW IN SUPPORT OF
RESPONDENT’S RELEASE ON CONDITIONAL PAROLE OR BOND**



DETAINED

Attorneys for Respondent

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
ARLINGTON, VIRGINIA**

_____)	
In the Matter of)	
)	
_____)	
)	File No.: A _____
Respondent,)	
)	
In removal proceedings)	
_____)	

**MOTION AND MEMORANDUM OF LAW IN SUPPORT OF RESPONDENT'S
RELEASE ON CONDITIONAL PAROLE OR BOND**

Respondent, _____, by and through his representatives, respectfully moves this Immigration Court to release him on conditional parole pursuant to this Court's authority under INA §236(a)(2)(B), or, in the alternative, to release him on the lowest possible bond of \$1500. In support of this request, _____ states the following:

Statement of Facts

1. _____ is a native and citizen of Honduras. He fled Honduras, alone, in January 2015 to avoid murder and torture at the hands of the members of the MS-13 gang, and crossed

the U.S. border into Texas in April 2015. He was immediately apprehended by Customs and Border Patrol agents and, as an unaccompanied alien minor claiming fear to return to his home country (he was 17 years old at the time of his entry to the U.S.), he was remanded to the custody of the Office of Refugee Resettlement (“ORR”) and held at the Baptist Children & Family Services facility in San Antonio, Texas. On [REDACTED], Immigration and Customs Enforcement (“ICE”) issued a Notice to Appear in Immigration Court against [REDACTED]. See Ex. A, Notice to Appear.

2. Several months later, in January 2016, [REDACTED] “aged out” of ORR’s custody as a consequence of his 18th birthday, and he was transferred to ICE custody at ICA-Farmville in Farmville, Virginia, where he continued to pursue a case for asylum, withholding of removal, and protection under the Convention Against Torture before the Arlington Immigration Court.

3. During the pendency of his asylum case, [REDACTED] has been freely transferred between ICE detention facilities all over the United States, including detention centers in Williamsburg, Virginia, York County, Pennsylvania, Etowah County, Georgia, and LaSalle Parish, Louisiana. [REDACTED] is currently detained at ICA-Farmville.

4. At no prior point during the pendency of his removal case has [REDACTED] asked for a bond/custody redetermination.

This Court Has The Authority to Release Respondent on Conditional Parole, Without Requiring Payment of Bond

5. Section 236(a)(2) of the Immigration and Nationality Act (“INA”) states that “the Attorney General may...release the alien on (A) bond of at least \$1500 with security approved by, and containing conditions prescribed by, the Attorney General, or (B) conditional parole.” The plain language of the statute therefore clearly authorizes the Immigration Judge to grant an alien release without requiring the payment of the bond, and lays forth “conditional parole” as a

release mechanism distinct from bond. *See also Matter of Castillo-Padilla*, 25 I&N Dec. 257, 259 (BIA 2010). The Board of Immigration Appeals (“BIA”) has also clarified that release on conditional parole can be based solely on the determination that a person is not a danger to the community or a flight risk. *See Matter of Guerra*, 24 I&N Dec. 37, 39-40 (BIA 2006); *Matter of Adenji*, 22 I&N Dec. 1102, 1111-13 (BIA 1999).

Respondent Is Eligible for Release, Is Neither a Danger To The Community Nor a Flight Risk, And Merits Release As A Matter of Discretion On Conditional Parole Or, Alternatively, On A \$1500 Bond

6. As an immigrant in removal proceedings under INA § 240, with no criminal convictions whatsoever, [REDACTED] is eligible for release on conditional parole or bond pursuant to Section 236(a) of the Immigration and Nationality Act (“INA”).

7. [REDACTED] is not a danger to the community. When he was a homeless street child at the age of 12 in Honduras, abused and abandoned by his mother, he was lured by older members of the MS-13 gang into performing menial tasks like delivering packages that he later learned contained money and, on occasion, drugs. As the Board of Immigration Appeals has noted in concluding that [REDACTED]’s conduct did not constitute a “serious non-political crime” that would bar him from asylum, “[T]he respondent was deceived into serving the gang's interest in menial ways. He did not choose to participate in the gang's other, more serious activities and indeed actively avoided participating in those activities when asked. He made unusual efforts to extract himself from the gang, declined to cooperate with their requests at great risk to his own safety, and successfully removed himself from the situation as soon as possible.” *See* Decision of the Board of Immigration Appeals, at 3. At great personal risk, and after being subjected to repeated beatings and death threats by gang members, Respondent explicitly refused to engage in criminal gang activities and fled to the United States with the sole purpose of seeking a life of peace and

safety. Based on this record, [REDACTED] has proven that he poses no threat to the community in the event of his release.

8. [REDACTED] is not a flight risk. He fled to the United States from Honduras with the sole purpose of seeking safety in the form of asylum. His asylum case has been pending for over two years, during which he has remained incarcerated in ORR and then ICE detention. He is eminently aware of the importance of his asylum claim in allowing him to remain safely in the United States, and of the attendant importance of showing up at each and every future immigration court hearing.

9. His immigration attorneys have also put into place a plan of action to ensure [REDACTED]'s attendance at all future immigration court hearings. [REDACTED]'s attorneys have arranged for his placement into the Youth in Transition Program, located at the Catholic Charities 801 East Men's Shelter at 2700 Martin Luther King Jr. Ave., S.E. Washington, DC, 20032. *See* Ex. B, Letter of Program Coordinator [REDACTED] [REDACTED]. The Youth In Transition Program provides for nine months of transitional shelter service for homeless youths age 18-24, while also providing a wide range of supportive social services. *Id.* [REDACTED]'s immigration attorneys will ensure his transport from the ICA-Farmville detention center to the 801 East Men's Shelter, and will also ensure his transportation to and from immigration court in Arlington, Virginia, for all future immigration court hearings. Between Catholic Charities, his counsel, and other individuals and organizations that have taken an interest in his wellbeing, [REDACTED] has a strong social network that will ensure his compliance and appearance at scheduled proceedings.

10. [REDACTED] has no prior immigration record or history of nonappearance at immigration court proceedings. Based on all of these factors, he has proven that his is not a flight risk.

11. [REDACTED] fled enormous danger in Honduras with no assistance. He has no family members in the United States. He is a deeply traumatized young man, who fled unimaginable abuse and persecution in his home country to find safety in the United States. So far, he has been detained, in ORR and then in ICE custody, for well over two years. He has regularly suffered abuse at the hands of older detainees in adult ICE detention, and the sheer length of time that he has been forced to remain in detention while his asylum case is pending has led to renewed trauma. These humanitarian considerations, including his commitment to abiding by the law, showing up for all future immigration court hearings, and abiding by any other conditions, such as regular ICE check-ins, that this Court or the DHS may choose to place on his release, all weigh strongly in favor of [REDACTED]'s release on conditional parole, or, in the alternative, on the lowest possible bond of \$1500.

Conclusion

WHEREFORE, for the foregoing reasons, [REDACTED] respectfully requests that this motion for his release on conditional parole or bond be granted.

Date

[REDACTED]

Attorneys for Respondent

EXHIBITS IN SUPPORT OF RESPONDENT'S REQUEST FOR RELEASE ON BOND

Exhibit Tab	Description
A	████ Notice to Appear
B	Letter of █████ Program Coordinator for Catholic Charities Youth in Transition Program
C	Declaration of █████

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
Arlington, Virginia**

In the Matter of: [REDACTED]

A Number: [REDACTED]-[REDACTED]-[REDACTED]

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Respondent's Motion for Release on Bond, it is HEREBY ORDERED that the motion be: ☐ GRANTED ☐ DENIED because:

- ☐ DHS does not oppose the motion.
- ☐ The respondent does not oppose the motion.
- ☐ A response to the motion has not been filed with the court.
- ☐ Good cause has been established for the motion.
- ☐ The court agrees to the reasons stated in the opposition to the motion.
- ☐ The motion is untimely per: _____.
- ☐ Other:

Deadlines:

- ☐ The application(s) must be filed by: _____.
- ☐ The respondent must comply with DHS biometrics instructions by: _____.

Date: _____, 2017

Immigration Judge

Certificate of Service

This document was served by: ☐ Mail ☐ Personal Service

To: ☐ Alien ☐ Alien c/o Custodial Officer ☐ Alien's Atty/Rep ☐ DHS

Date: _____

By: Court Staff: _____

██████████
A ██████████-██████████-██████████

PROOF OF SERVICE

On this _____ day of _____, 2017, I, _____, served a copy of this:

MOTION AND MEMORANDUM OF LAW IN SUPPORT OF RELEASE ON
CONDITIONAL PAROLE OR BOND

and all attached pages to:

The Office of Chief Counsel
901 N. Stuart Street, Suite 1307
Arlington, VA 22203

By (check one): ☐ first-class mail ☐ courier service ☐ hand delivery.

[DATE

████████████████████
██
██
██
██
██