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

In the Matter of

_____,"

Respondent

In removal proceedings

File No.: A [REDACTED]

Immigration Judge Rodger C. Harris

Next Master Calendar Hearing:
April 0, 2017 at 8:00AM

MOTION FOR BOND AND CUSTODY REDETERMINATION

**UNITED STATES DEPARTMENT OF JUSTICE
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In the Matter of)
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[REDACTED] [REDACTED],)
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File No.: A [REDACTED]

MOTION FOR BOND AND CUSTODY REDETERMINATION

Respondent, [REDACTED] [REDACTED] (hereinafter “Mr. [REDACTED]”), by and through his representatives, respectfully moves this Immigration Court to release him on conditional parole pursuant to the Court’s authority under INA § 236(a)(2)(B) or, in the alternative, set a reasonable bond in this matter. In support thereof, Mr. [REDACTED], through undersigned counsel, states the following:

BACKGROUND

1. Mr. [REDACTED] is a native and citizen of El Salvador. Mr. [REDACTED] entered the United States in or around 2015. Mr. [REDACTED] fled El Salvador to escape gang violence targeted against his family. To date, gang members have murdered four of Mr. [REDACTED]’s relatives in El Salvador. Most recently, gang members kidnapped and murdered the partner of Mr. [REDACTED]’s uncle, [REDACTED] (“Mr. [REDACTED]”), in or around April 2016. Gang members continue to threaten the home Mr. [REDACTED] shared with Mr. [REDACTED] in El Salvador.

2. Mr. [REDACTED] did not come into the custody of Immigration and Customs Enforcement (“ICE”) following a criminal arrest, but rather was placed into removal proceedings after he was apprehended by ICE officers looking for another individual in his home.
3. Mr. [REDACTED] is currently detained at ICA-Farmville Detention Center in Farmville, Virginia.
4. Prior to his detention, Mr. [REDACTED] was regularly employed at [REDACTED]’s Pizza in Stafford, Virginia as a cook. Mr. [REDACTED] has never been arrested for any crime.
5. If released, Mr. [REDACTED] will reunite with his mother and half-brother, [REDACTED], at [REDACTED]
[REDACTED]. Mr. [REDACTED]’s half-brother is already pursuing his family-based asylum claim with the assistance of legal counsel in California; Mr. [REDACTED] hopes to consolidate their two cases. Mr. [REDACTED] will have the support of family members and friends, including U.S. citizens and others in lawful status, to help him continue to comply with all court requirements if released on parole or bond.

STATEMENT IN SUPPORT OF REQUEST FOR CONDITIONAL PAROLE OR BOND

A. Introduction and Statement of Law

This Court has the authority to order Mr. [REDACTED] released on conditional parole or to set a bond of \$1500 in this matter.¹ As discussed below, Mr. [REDACTED] warrants release on conditional parole or pursuant to a low bond because he is not a flight risk and he is not a danger to society.

1. This Court has the Authority to Release Mr. [REDACTED] on Conditional Parole, without the Payment of Bond

Section § 236(a)(2) of the INA states that “the Attorney General...may release the alien on: (A) bond...or (B) conditional parole.” Thus, the plain language of the INA makes clear that

¹ See INA § 236 (a)(2)(A)(B)(“the Attorney General...may release the alien on bond of at least \$1500... or conditional parole”).

an Immigration Judge has the authority to order an alien released on conditional parole—without the requirement of a payment of bond—and that conditional parole is a release mechanism distinct from the issuance of bond.²

The Board of Immigration Appeals has clarified that release on conditional parole can be based solely on a determination that the person ■■■s not present a danger to society, is not a threat to national security and ■■■s not pose a flight risk; no showing of additional humanitarian reasons is required.³

2. Alternatively, this Court has the Authority to Issue a Bond of \$1500 in this Matter

An Immigration Judge’s authority to issue bond of \$1500 under INA § 236(a)(2) is well-established.⁴

B. Mr. ■■■ Warrants Release on Conditional Parole or on a Bond of \$1500

The record reflects that Mr. ■■■ warrants release on conditional parole or a low bond because he is not a flight risk, he is not a danger to the community, and he is *prima facie* eligible for relief in the form of asylum and withholding of removal.⁵

1. Mr. ■■■ is not a Flight Risk

Mr. ■■■ is not a flight risk. Mr. ■■■ has no prior immigration record or history of nonappearance at immigration court proceedings. Since he arrived to the United States approximately two years ago, Mr. ■■■ has been regularly employed at ■■■’s Pizza in Stafford, Virginia. He has maintained a fixed address. If released, he would reunite with his mother and

² *Matter of Castillo-Padilla*, 25 I & N Dec. 257, 259 (BIA 2010).

³ *See Matter of Guerra*, 24 I & N Dec. 37, 39-40 (BIA 2006); *Matter of Adeniji*, 22 I & N Dec. 1102, 1111-13 (BIA 1999).

⁴ *See* INA § 236(a)(2) (“the Attorney General...(2) may release the alien on—(A) bond of at least \$1,500...”); *see also Matter of Guerra*, 24 I & N Dec. at 39 (BIA 2006).

⁵ *See* 8 C.F.R. § 1003.19(h); C.F.R. § 1003.19(d) (“The determination of the Immigration Judge as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or the Service.”).

half-brother at [REDACTED]. Mr. [REDACTED]'s mother would provide a stable residence for him. Mr. [REDACTED] has multiple family members and friends with lawful status in the United States who will support him as he complies with the requirements of his immigration proceedings.

2. Mr. [REDACTED] is not a Danger to Society

Mr. [REDACTED] is not a danger to the community. Mr. [REDACTED] [REDACTED]s not have any criminal convictions, nor has he ever been arrested by the police in the United States or El Salvador. He fled his native country of El Salvador precisely to escape conduct that was dangerous to society, and [REDACTED]s not now intend to promote dangerous conditions in a new country. Thus, it is clear that and that Respondent [REDACTED]s not pose a danger to society.

3. Mr. [REDACTED] is Eligible for Asylum and Withholding of Removal

If released, Mr. [REDACTED] intends to pursue legal relief in the form of asylum, withholding of removal and protection under the Convention Against Torture. Mr. [REDACTED] fears ongoing persecution in El Salvador on account of his family ties.⁶ Multiple members of Mr. [REDACTED]'s family have been murdered by gang members in El Salvador, as recently as 2016. Mr. [REDACTED]'s family continues to receive threats from gang members in El Salvador. The recent and ongoing nature of these attacks and threats constitutes changed circumstances that overcome the one-year bar to asylum. Mr. [REDACTED] has established a *prima facie* case for relief under asylum, withholding of removal, and protection under the Convention Against Torture.

⁶ See, e.g., *Cantillano Cruz v. Sessions*, --- F.3d --- (4th Cir. 2017) (reaffirming family ties as a social group even in cases involving mixed motives).

C. Conclusion

Conditional parole is warranted in this matter. Alternatively, Mr. [REDACTED] should be released on a low bond. He [REDACTED]s not pose a flight risk and will not fail to appear before the Court when required to do so. He presents no threat to the safety or security of the community. He has established a strong *prima facie* case for relief from removal.

WHEREFORE, Mr. [REDACTED] respectfully requests that the Court release him on conditional parole or at the lowest possible bond.

Respectfully Submitted,

Date

Law Student appearing
pursuant to 8 C.F.R. 1292.1(a)(2)
CAIR Coalition
On behalf of Respondent

Date

Staff Attorney
CAIR Coalition
On behalf of Respondent

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

In the Matter of:

[REDACTED]
A [REDACTED]

ORDER OF THE IMMIGRATION JUDGE

Upon consideration of Respondent's Motion for Bond and Custody Redetermination, it is

HEREBY ORDERED that the motion be: ☐ **GRANTED** ☐ **DENIED** because:

- ☐ DHS [REDACTED]s not oppose the motion.
- ☐ The respondent [REDACTED]s 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: _____

Hon. Rodger C. Harris
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: _____

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EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
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_____, _____
A _____

PROOF OF SERVICE

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

MOTION FOR BOND AND CUSTODY REDETERMINATION

and all attached pages to: _____ The Office of Chief Counsel _____

at the following address: _____ 1901 South Bell Street, Suite 900 _____

_____ Arlington, VA 22202 _____

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

Capital Area Immigrants' Rights Coalition
1612 K Street, NW, Suite 204
Washington, DC 20006
(T) 202-331-3320

Date