

Matter of M-S-V-, Respondent

Decided October 6, 2026

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

- (1) The respondent failed to establish that he does not pose a danger to the community where he worked as a long-haul truck driver without a valid commercial driver's license and was arrested for failing to stop at a port of entry on an interstate.
- (2) An ambiguous social connection and uncertain financial ability to provide support do not fulfill the rigorous standards for a valid, reliable, and credible sponsor that may mitigate an alien's flight risk.

FOR THE RESPONDENT: Joseph J. Rose, New York, New York

FOR THE DEPARTMENT OF HOMELAND SECURITY: Mauricio Ramirez, Counsel

BEFORE: Board Panel: GALLOW and HANSELL, Appellate Immigration Judges;
WANG, Temporary Appellate Immigration Judge.

GALLOW, Appellate Immigration Judge:

The Department of Homeland Security ("DHS") appeals the decision of the Immigration Judge dated March 17, 2026, ordering the respondent's release from detention upon the payment of a \$20,000 bond. The respondent, a native and citizen of Russia, opposes the appeal. The appeal will be sustained, the Immigration Judge's order will be vacated, and the respondent will be ordered detained without bond.

Whether an alien poses a danger to the community or a flight risk are questions of judgment that we review de novo, but the factual findings underlying those questions are reviewed for clear error. *See Matter of Martinez-Rodriguez*, 29 I&N Dec. 656 (BIA 2026) (dangerousness); *Matter of Dobrotvorskii*, 29 I&N Dec. 211, 212 (BIA 2025) (flight risk). Furthermore, in custody determination proceedings, the respondent bears the burden of establishing that he is not a flight risk or a danger to the community. *Matter of Siniauskas*, 27 I&N Dec. 207, 207 (BIA 2018); *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).

I. PROCEDURAL HISTORY

The respondent was admitted to the United States on September 28, 2021, as a nonimmigrant visitor with authorization to remain in this country until March 27, 2022. The respondent overstayed his visa. Removal proceedings commenced with DHS' filing of a notice to appear with the Immigration Court on March 3, 2026.

On February 24, 2026, the respondent was detained by DHS pursuant to section 236 of the Immigration and Nationality Act, 8 U.S.C. § 1226 (2024). Following a bond hearing conducted on March 16, 2026, the Immigration Judge determined the respondent did not present a danger to the community or an unmitigable risk of flight. Based on these findings, the Immigration Judge issued an order granting the respondent's request for release from custody upon payment of a \$20,000 bond. On April 8, 2026, DHS filed an appeal of the Immigration Judge's March 17, 2026, written bond memorandum, challenging the Immigration Judge's findings as to both danger and flight risk.

II. DISCUSSION

On appeal, DHS argues that the Immigration Judge erred in determining that the respondent met his burden of establishing that he does not present a danger to the community and is not a flight risk. DHS asserts that the respondent is a danger to the community because he worked as a commercial truck driver despite not possessing a valid commercial driver's license and was arrested by police in Wyoming for failing to stop at a port of entry on the interstate. DHS further contends that the respondent is a significant flight risk because he is a recent entrant with limited ties to the United States, his putative sponsor failed to submit any financial evidence indicating his ability to support the respondent, and he did not submit proof of any pending applications for relief from removal in support of his request for custody redetermination.

A. Dangerousness

In determining whether an alien presents a danger to the community, an Immigration Judge can, and should, consider the nature and circumstances of an alien's criminal activity, including the underlying facts of any arrests and convictions. *Matter of Siniauskas*, 27 I&N Dec. at 208–09; *Matter of Guerra*, 24 I&N Dec. at 40–41 (providing that relevant factors in determining whether an alien should be released from immigration custody include the extensiveness, recency, and seriousness of criminal activity regardless of

whether a conviction resulted). As explained below, the Immigration Judge's decision notes, but minimizes, the seriousness of the respondent's recent trucking-related arrest in Wyoming.

In granting the respondent's request for bond, the Immigration Judge found, in relevant part, that "the [r]espondent has no criminal history." We observe clear error in this finding given the Immigration Judge's concurrent determination that the respondent "was detained by Laramie County [Sheriff] on February 24, 2026, when they conducted a vehicle stop after the vehicle the [r]espondent was in failed to stop at the [p]ort of [e]ntry at I-80." *See* 8 C.F.R. § 1003.1(d)(3)(i) (2026). As DHS correctly argues, the respondent was arrested for failing to stop at a port of entry on an interstate, and this arrest is relevant criminal history.

Further, during the proceedings below as well as on appeal, the respondent has consistently admitted to working as a long-haul truck driver. However, the evidence submitted to the Immigration Judge below was devoid of a valid commercial driver's license. Moreover, the driver's license the respondent provided—a regular driver's license—was expired at the time.¹ DHS submitted evidence in support of its contention that the respondent presents a danger, including recent media articles which attest to the dangerousness of driving tractor trailers without a valid commercial driver's license, as documented in numerous highway accidents. As DHS correctly argues, operating commercial trucks without a valid commercial driver's license creates severe road dangers and "is an inherently dangerous profession." In addition, the Immigration Judge failed to make findings as to whether the respondent was employed in any capacity without authorization, particularly where the record reflects his entry into the United States on a nonimmigrant visa. For these reasons, we disagree with the Immigration Judge's conclusion on dangerousness. The respondent failed to establish that he does not pose a danger to the community where he worked as a long-haul truck driver without a valid commercial driver's license and was arrested for failing to stop at a port of entry on an interstate.

B. Flight Risk

Even assuming, *arguendo*, that the respondent met his burden to show that he does not present a danger to the community, we agree with DHS that that the respondent failed to meet his burden of proof to demonstrate he is

¹ Thus, there was no evidence before the Immigration Judge to support the respondent's legal ability to drive in the United States at all, much less in the long-haul truck driving position for which he is currently employed.

not a flight risk or that his risk of flight could be ameliorated by the payment of a monetary bond. *See Matter of E-Y-F-G-*, 29 I&N Dec. 103, 104 (BIA 2025) (identifying factors used in assessing whether an alien merits release on bond); *Matter of Guerra*, 24 I&N Dec. at 40 (same). DHS argues the record evidence does not support the Immigration Judge's conclusion that the respondent will not pose a significant flight risk. DHS specifically challenges the Immigration Judge's assignment of weight to the respondent's proposed sponsor, his family and community ties, and his intent to apply for asylum and related relief.

In considering whether the respondent presented a risk of flight, the Immigration Judge noted, "[t]he Court recognizes that the [r]espondent is a fairly recent arrival who entered the United States with a visa and then overstayed, which presents a potential for a flight risk." The Immigration Judge further considered the respondent's manner of entry into the United States via a nonimmigrant visa, his limited ties to this country and minimal employment history, and his desire to seek asylum, while acknowledging he had yet to file any applications for relief. The Immigration Judge concluded that a \$20,000 bond was sufficient to ameliorate any flight risk concerns.

The Immigration Judge did not clearly err in observing that the respondent entered the United States recently and overstayed his visitor visa. While he has a fixed address and some employment history, *see Matter of Guerra*, 24 I&N Dec. at 40 (identifying factors to be considered in determining whether an alien merits release from immigration detention, including the alien's manner of entry and length and stability of residence in the United States), the record does not support the Immigration Judge's findings concerning other potentially relevant factors in these proceedings, including the respondent's proposed sponsor, length of residence in the United States, family ties, and, importantly, eligibility for relief. The evidence in this record also does not establish that the respondent has any family ties that would support a path to lawful permanent residence in the United States. *Cf. id.* (identifying likely family-based paths to lawful residence as a factor to consider in determining whether an alien should be released from immigration detention). As we explained in *Matter of Andrade*, 19 I&N Dec. 488, 490 (BIA 1987), an alien with a greater likelihood of being granted relief has a stronger motivation to appear for a hearing than one who has less potential to obtain relief. The respondent does not claim to have any probable path to permanent lawful status. *See Matter of R-A-V-P-*, 27 I&N Dec. 803, 805 (BIA 2020) (determining that an alien, who recently entered without inspection, lacked family ties, and did not claim a current or past lawful status in the United States presented a significant risk of flight).

Additionally, DHS challenges the Immigration Judge's reliance on the respondent's proffered sponsor in evaluating the respondent's burden of proof as it relates to his risk of flight. While we acknowledge that a sponsor's support may mitigate the flight risk associated with a limited likelihood of success on an application for relief, the Immigration Judge erred in finding that the documents relating to the respondent's proposed sponsor, an apparent friend, sufficiently reduced the flight risk in these proceedings such that a bond will ensure the respondent's presence at future hearings. *See Cooper v. Harris*, 581 U.S. 285, 309 (2017) (holding that, under clear error review, reversal is appropriate only when the appellate adjudicator is "left with the definite and firm conviction that a mistake has been committed" (quoting *Anderson v. City of Bessemer City*, 470 U.S. 564, 573–74 (1985))). While such support is relevant to the flight risk inquiry, evidence demonstrating the nature and extent of the proposed support must be considered in assessing the weight it warrants. *Matter of Dobrotvorskii*, 29 I&N Dec. at 213–14. Unlike a visa sponsor or bond obligor, who assumes enforceable financial or legal responsibility, an individual who merely offers to "support" a respondent assumes no such obligation, meaning such statements are entitled to limited weight. *See Matter of R-A-V-P-*, 27 I&N Dec. at 806 (concluding that a friend's statement of support, indicating he was willing to support the alien and provide him a place to stay, was insufficient to ensure the alien's appearance for his removal hearing).

While the respondent's proposed sponsor indicates that he has known the respondent for approximately 2 years, the respondent submitted no evidence to verify this claimed relationship. *See Matter of Z-N-L-*, 29 I&N Dec 511, 512 (BIA 2026) (concluding that the alien did not meet his burden of establishing he was not a flight risk where, in relevant part, he submitted no evidence to verify his claimed familial relationship with his alleged sponsor). Although the exact nature of the respondent's relationship with his sponsor is unknown, it does not appear that this individual can sponsor the respondent for any lawful immigration status. Further, it is unclear how the respondent's sponsor will provide financial support or otherwise guarantee that the respondent will appear at future immigration hearings, particularly where the sponsor failed to submit an affidavit of support or any other documents attesting to his financial ability to do so. *See Matter of Dobrotvorskii*, 29 I&N Dec. at 213–14 (explaining that "evidence of a legitimate sponsor relates directly to whether the alien has a fixed address, which is a flight risk factor").

The record documents related to the proposed sponsor include a letter from the sponsor and his United States passport. The record does not include any evidence indicating the sponsor has the financial ability to provide any

support to the respondent that could assist in his appearance at future hearings. While the respondent's evidence states he included the sponsor's financial documents in his filing before the Immigration Judge, such documents were not submitted. Because the sponsor is merely a "friend" who cannot provide a path to lawful status in the United States, this arrangement does not establish the deep, permanent ties to a specific locality necessary to ensure future compliance with Immigration Court appearances. *See Matter of R-A-V-P-*, 27 I&N Dec. at 806 (concluding that a proffered bond sponsor was not particularly probative of flight risk where no evidence of the sponsor's immigration status or ability to support the alien was submitted). An ambiguous social connection and uncertain financial ability to provide support do not fulfill the rigorous standards for a valid, reliable, and credible sponsor that may mitigate an alien's flight risk.

Additionally, while the Immigration Judge generally notes that the respondent "will be seeking relief in the form of asylum," no asylum application was presented before the Immigration Judge. The Immigration Judge's decision does not explain how the respondent's mere intent to file an asylum application bears positively on his likelihood of obtaining relief from removal, or, relatedly, his incentive, if any, to appear for future hearings. Thus, we agree with DHS' assertions that the respondent poses a significant flight risk, as his eligibility for relief is entirely speculative where he failed to submit any applications for relief from removal before the Immigration Judge. While the respondent referred to an intent to apply for asylum and related forms of relief at some time in the future, an application for relief may not be a sufficiently strong incentive to ensure an alien's appearance upon his release from detention. *See id.* at 806–07. As we recently observed, "speculative future eligibility for relief based upon conjecture or hypothetical future events does not materially diminish flight risk." *Matter of A-L-S-*, 29 I&N Dec. 794, 797 (BIA 2026). Finally, the respondent's tenuous ties to this country, which include his proposed bond sponsor and his character references who appear to be various acquaintances with questionable ties to the respondent,² do not outweigh the significant flight risk.

² Three of the character references submitted letters of support containing a different address than their address reported to government officials on their respective driver's licenses.

III. CONCLUSION

For these reasons, we disagree with the Immigration Judge's conclusions as to both the respondent's danger to the community and risk of flight.³ The respondent has not shown a likelihood that he would prevail in overcoming the removal charges currently pending against him. *See Matter of R-A-V-P-*, 27 I&N Dec. at 805 (providing that the "likelihood that relief from removal will be granted" may be considered in a bond determination). The respondent's eligibility for relief is purely speculative, and he has not established that he has a valid sponsor willing and able to ensure his appearance at future hearings. *See id.* at 805–07 (assessing flight risk factors); *Matter of Guerra*, 24 I&N Dec. at 40 (describing factors relevant to bond determinations). Based on the foregoing, we will vacate the Immigration Judge's decision and order the respondent detained without bond.

ORDER: DHS' appeal is sustained, and the Immigration Judge's March 17, 2026, bond order is vacated.

FURTHER ORDER: The respondent is ordered held in DHS' custody without bond.

³ The respondent recently submitted additional evidence before the Board, including information regarding a new sponsor and a copy of an updated application for asylum and related relief. This Board reviews the record as it was before the Immigration Judge and will not accept new evidence on appeal. *Matter of Fedorenko*, 19 I&N Dec. 57, 73–74 (BIA 1984) (noting that the Board will not accept new evidence on appeal); *see* 8 C.F.R. § 1003.1(d)(3)(iv) (2026) (providing that the Board may not make findings of fact on appeal). The respondent may move to have such evidence considered by the Immigration Judge should he choose to pursue custody redetermination and show materially changed circumstances. *See* 8 C.F.R. § 1003.19(e) (2026).