**XXXXXXXXXXXXX** **DETAINED**

**XXXXXXX**

***Pro Bono Attorney for Respondent***

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**[NAME] IMMIGRATION COURT
[NAME], CALIFORNIA**

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**In the Matter of:**  **)**

**)**

**LAST NAME, FIRST NAME )** **File No.: A XXX XXX XXX**

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**In Bond Proceedings** **)**

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**Immigration Judge JUDGE NAME Next Hearing: TBA**

**RESPONDENT FIRSTNAME LASTNAME’S MOTION FOR RELEASE ON CONDITIONAL PAROLE OR BOND**

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**[NAME] IMMIGRATION COURT
[NAME], CALIFORNIA**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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**RESPONDENT’S MOTION FOR RELEASE ON CONDITIONAL PAROLE OR BOND**

The Respondent, FIRSTNAME LASTNAME (“Mr. LASTNAME”), by and through his undersigned representative, respectfully moves the Immigration Judge (“IJ”) to release him from immigration detention on conditional parole, or, in the alternative, to grant a minimum bond of $1,500. As the following demonstrates, Mr. LASTNAME is neither a danger to society nor a flight risk. *See Exhibits in Support of Respondent’s Bond Hearing* (hereinafter “*Exhibits*,” filed concurrently herewith). Mr. LASTNAME is not a violent person. He came to the United States to seek asylum from COUNTRY. He has every intention of pursuing his asylum case with the support of counsel. In support of this motion, Respondent submits the following:

1. Mr. LASTNAME is a native and citizen of the COUNTRY. *Exhibit X,* at pg. X. He entered the United States without inspection after crossing the U.S.-Mexico border on or about DATE.
2. Mr. LASTNAME fled COUNTRY fearing for his life and he has already submitted his Form I-589, Application for Asylum, Withholding of Removal, and Protection Under the Convention Against Torture. *Exhibit X*, at ¶ X. He suffers from mental health issues and struggles to sleep because of nightmares, which are exacerbated by the difficult and isolating conditions of detention. *Exhibit X*, at ¶ X.
3. SPONSORNAME (“Mr. SPONSOR”) lives at ADDRESS and is a U.S. citizen. *Exhibit X,* at pg. X; *Exhibit X,* at pg. X. He has offered to sponsor the Respondent and ensure his attendance in any and all future immigration proceedings. *Exhibit X,* at pg. X.
4. Respondent FIRSTNAME LASTNAME, who is being represented *pro bono*, does not have the ability to pay for a bond. Given the equities in this case, we ask the Court to grant the Respondent conditional parole, or in the alternative, set bond at the *de minimus* amount.
5. **ARGUMENT**
	1. **This Court Possesses the Authority to Grant Respondent Conditional Parole and Release HIM on HIS Own Recognizance**

Pursuant to section 236 (a) of the INA, the Attorney General may release a noncitizen from detention pending his removal case on a "bond of at least $1,500...or conditional parole." *See* INA, § 236 (a), 8 U.S.C. §1226 (a). The District Court for the Western District of Washington has held that “[INA § 236(a)] unambiguously states that an [Immigration Judge] may consider conditions for release beyond a monetary bond.” See *Rivera v. Holder*, 307 F.R.D. 539 at 553 (W.D. Wash. 2015). The District Court's decision presents an unequivocal reading of the statute to release noncitizens on conditional parole and is persuasive authority.

The Department of Homeland Security (“Department”) also acknowledges that section 236(a) of the INA permits immigration judges to release noncitizens on conditional parole without setting monetary bond, stating in memorandum, “[t]he Immigration Judge [has] authority under INA § 236 (a) to release a respondent on [his] *own recognizance and pursuant to conditional parole*, as opposed to setting a monetary bond with a minimum amount of $1,500.” *See In re V-G*, Department of Homeland Security Supplemental Brief at 3 (BIA filed Jan. 21, 2015). Within the Department’s own practice of reviewing custody of detainees, conditional parole is equivalent to releasing an individual on his own recognizance. The Department routinely releases on their own recognizance pursuant to the same authority that is vested in IJs to grant conditional parole. *See e.g.*, Form I-220A, Order of Release on Own Recognizance (stating "[i]n accordance with Section 236 of the [INA]...you are being released on your own recognizance."). Thus, this Court may grant Respondent conditional parole and release him on his own recognizance.

1. **MR. LASTNAME MERITS RELEASE FROM CUSTODY**

Mr. LASTNAME does not fall into any of the categories requiring mandatory detention, and thus is eligible for release under INA § 236(a); *see also Preap v. Johnson*, 831 F.3d 1193 (9th Cir. 2016). The burden is on the respondent to show that he merits release on bond. In *Matter of Guerra*, 25 I&N Dec. 37, 40 (BIA 2006), the Court set forth a series of factors that Immigration Judges could consider when determining whether the respondent has met his burden, including:

(1) whether the alien has a fixed address in the United States; (2) the alien’s length of residence in the United States; (3) the alien’s family ties in the United States, and whether they may entitle the alien to reside permanently in the United States in the future; (4) the alien’s employment history; (5) the alien’s record of appearance in court; (6) the alien’s criminal record, including the extensiveness of criminal activity, the recency of such activity, and the seriousness of the offenses; (7) the alien’s history of immigration violations; (8) any attempts by the alien to flee prosecution or otherwise escape from the authorities; and (9) the alien’s manner of entry to the United States.

* 1. **MR. LASTNAME IS NOT A FLIGHT RISK**

There is no evidence that Respondent Mr. LASTNAME is a flight risk. He is committed to complying with immigration orders and is aware he must appear for all future hearings. *See Exhibit X,* at ¶ X. He has a dedicated sponsor and permanent address where he will reside upon release. *Exhibit X,* at pg. X. He is eligible for relief from removal and he has already filed his application for asylum. Thus, relief from removal is available to Mr. LASTNAME, which incentivizes him to attend future immigration court hearings. *Exhibit X*, at ¶ X.

In *Matter of R-A-V-P* 27 I&N Dec. 803 (BIA 2020), the respondent did not provide any evidence as to the sponsor’s immigration status, ability to support the respondent, or willingness to ensure that the respondent would appear for future proceedings. *Id*. at 806*.* The respondent in *Matter of R-A-V-P* also did not provide any information as to the nature of the relationship between the respondent and his sponsor, including how they knew each other. *Id.* This case is clearly distinguishable.

Here, Respondent Mr. LASTNAME connected with his sponsor through \_\_\_\_\_\_\_\_ and is grateful for his help. *Exhibit X*, at ¶ X. Mr. SPONSOR is a former immigrant who knows of Respondent through \_\_\_\_\_\_\_\_. *Exhibit X,* at pg. X. Mr. SPONSOR has provided proof of his U.S. citizenship and is willing to provide for and support Mr. LASTNAME. *Exhibit X,* at pg. X; *Exhibit X,* at pg. X.

Respondent thus is not a flight risk and has every reason to remain in STATE and to appear at all future court hearings. If released, he could work more easily with a pro bono counsel outside of detention with a LANGUAGE interpreter to prepare his asylum case.

* 1. **MR. LASTNAME IS NOT A DANGER TO THE COMMUNITY**

There is no evidence that Mr. LASTNAME poses a danger to society. *Exhibit X,* at ¶ X. Mr. LASTNAME has no criminal record in the U.S. or in his country of origin. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ has attested to his good moral character and belief that the Respondent will be an upstanding and law-abiding resident of the United States. *See* *Exhibit X*, at pg. X.

The facts demonstrate that Mr. LASTNAME is a gentle family man who would not cause harm to anyone. He has no other convictions, and has never had any dealings with drugs, firearms, or violence. Respondent would thus not be a danger to anyone in his community if he is released from custody. *Exhibit X,* at ¶ X.

* 1. **MR. LASTNAME’S HEALTH IS NEGATIVELY IMPACTED BY PROLONGUED DETENTION**

There are humanitarian reasons supporting Mr. LASTNAME’s release from detention. Mr. LASTNAME has been detained for about NUMBER months and isolated from his community. *See Exhibit X,* at ¶ X. Prolonged detention has aggravated his sleep issues, and he believes that regular access to fresh air and a supportive community will benefit his health. *Id*.

1. **THE COURT SHOULD RELEASE MR. LASTNAME ON CONDITIONAL PAROLE OR ON *DE MINIMUS* BOND**

Respondent Mr. LASTNAME has been detained since MONTH 202X. His financial circumstances should be considered when setting his bond. The Ninth Circuit in *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) recently held that due process requires a Court to consider a person’s financial circumstances when setting bond. The purpose of bond is to ensure future appearance in court. *Id*. at 991. The Court recognized that “the amount of a bond that is reasonably likely to secure the appearance of an indigent person obviously differs from the amount that is reasonably likely to secure a wealthy person’s appearance.” *Id*. The requirement in immigration cases to consider the ability to pay “follows directly from the Supreme Court’s dictate that immigration detention bear a reasonable relation to its purpose.” *Id*. at 990. “Detention of an indigent ‘for inability to post money bail’ is impermissible if the individual’s ‘appearance at trial could reasonably be assured by one of the alternate forms of release.” *Id*. citing *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc).

Respondent Mr. LASTNAME is being represented *pro bono* in these proceedings. With no direct source of income or savings, Mr. LASTNAME should be considered indigent. We therefore ask that he be released upon conditional parole. In the alternative, if the Court finds a bond necessary to secure his future appearance, we request a bond in a *de minimis* amount.

**IV. CONCLUSION**

For the foregoing reasons, Respondent Mr. LASTNAME warrants release on conditional parole or bond. He is neither a danger to the community, nor a flight risk. We respectfully request that this Court release Mr. FIRSTNAME LASTNAME so that he can pursue his asylum claim from the community.

Respectfully Submitted,

Date: MONTH XX, 202X

**NAME**

Position

Contact Info

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**[NAME] IMMIGRATION COURT
[NAME], CALIFORNIA**

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**TABLE OF EXHIBITS**

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| **B** | **ID Card of FIRSTNAME LASTNAME,** with a certified translation | 7-9 |
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**PROOF OF SERVICE**

This document, Respondent FIRSTNAME LASTNAME’s Motion for Release on Conditional Parole or Bond, was electronically filed through ECAS and both parties are participating in ECAS. Therefore, no separate service was completed.

DATE XX, 202X

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[NAME] Date