UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT

Respondent Name: GUASTI FERNANDES, MANUELLA	A-Number: 236-718-835
Address: DHS CUSTODY SAN DIEGO, CA 92154	REJECTION NOTICE Date: 08/12/2026

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Motion for Custody Redetermination - Manuella.pdf

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Date: 08/12/2026

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DETAINED

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
7488 Calzada de La Fuente
Otay Mesa, CA 92154

In the Matter of	)	
Manuella Guasti Fernandes	)	**File No. A 236-718-835**
In Bond Proceedings	)	

Immigration Judge: **N/A**

Next Hearing Date: **N/A**

RESPONDENT'S MOTION FOR CUSTODY REDETERMINATION AND REQUEST FOR RELEASE ON RECOGNIZANCE OR, IN THE ALTERNATIVE, BOND

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Pursuant to section 236(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1226(a), and 8 C.F.R. §§ 1003.19 and 1236.1, the Respondent, Manuella Guasti Fernandes ("Ms. Guasti Fernandes"), through undersigned counsel, respectfully moves this Court to conduct a custody redetermination hearing in her case at the earliest possible date. Ms. Guasti Fernandes is currently in the custody of the Department of Homeland Security ("DHS") under INA § 236(a) at the Otay Mesa Detention Center, located at 7488 Calzada de la Fuente, San Diego, CA 92154.

This is Respondent's first request for a custody redetermination. No prior bond hearing has been held and no prior custody determination has been made by this Court. Accordingly, the requirement of 8 C.F.R. § 1003.19(e) that a subsequent application be accompanied by a showing of materially changed circumstances does not apply.

Respondent was lawfully inspected and admitted to the United States as a B-2 nonimmigrant. *See* Exhibit 3. She has no criminal history of any kind. *See* Exhibit 9. She is married to a United States citizen and is the beneficiary of a pending Form I-130 and an applicant for adjustment of status. *See* Exhibits 5-7. She resides with her spouse at a fixed address in San Diego. *See* Exhibit 8. Twenty-five days before she was detained, she appeared voluntarily at a United States Citizenship and Immigration Services ("USCIS") field office for her adjustment-of-status interview, a fact documented in DHS's own records. *See* Exhibit 6. She has never failed to appear for any immigration obligation. *See* Exhibits 5, 6 and 8.

Because **Respondent has amply demonstrated that she is neither a danger to the community nor a flight risk**, Respondent respectfully requests that this Court order her release on conditional parole or, in the alternative, set bond in the statutory minimum amount of $1,500. *See* INA § 236(a)(2).

I. PROCEDURAL HISTORY AND CUSTODY STATUS

Respondent is a 30-year-old native and citizen of Brazil, born March 4, 1996. *See* Exhibit 3.

On March 10, 2023, the United States Department of State issued Respondent a B1/B2 visitor visa, valid through March 5, 2033. On March 29, 2024, Respondent was inspected and admitted at Los Angeles, California, as a B-2 nonimmigrant visitor. Her Form I-94, Arrival/Departure Record No. 832391423A3, reflects a class of admission of "B2" and an admit-until date of September 27, 2024. *See* Exhibit 3.

On September 26, 2024 (one day before her authorized period of stay expired), Respondent timely filed a Form I-539, Application to Extend/Change Nonimmigrant Status, which USCIS received under Receipt No. WAC2490161624. *See* Exhibit 4. On February 28, 2025, USCIS denied that application.

On November 4, 2025, Respondent married Alina Carrie Grayeske, a United States citizen born in Ridgecrest, California on August 8, 1986, in a ceremony celebrated in San Diego. Upon solemnization, Ms. Grayeske adopted the married name "Alina Carrie Guasti," under which she now appears in USCIS records. *See* Exhibit 7 and 12.

Respondent maintains a fixed and documented residence with her spouse at 4912 Muir Avenue, Apartment 5, San Diego, California 92107. The spouses entered into a twelve-month residential lease for that apartment, as co-tenants, and have resided there together since. *See* Exhibit 8. This common address is also reflected on the marriage certificate. *See* Exhibit 7.

On April 1, 2026, Ms. Grayeske filed a Form I-130, Petition for Alien Relative, on Respondent's behalf (Receipt No. IOE0936280445), and Respondent concurrently filed a Form I-485, Application to Register Permanent Residence or Adjust Status (Receipt No. IOE0936280444). Both remain pending before USCIS. *See* Exhibit 5 and 6.

On April 10, 2026, USCIS directed Respondent to appear for the collection of her biometrics at the Application Support Center in Chula Vista, California, on May 1, 2026. Respondent appeared as directed, and her biometrics were collected and processed on that date. *See* Exhibit 6.

On June 5, 2026, USCIS directed Respondent and her spouse to appear for an interview on the Form I-485 at the San Diego USCIS field office on July 13, 2026, at 12:30 p.m. *See* Exhibit 6.

Respondent and her spouse appeared for that interview as directed. Respondent's attendance is confirmed by DHS's own records: the Request for Evidence subsequently issued by USCIS on the I-130 recites that it was prepared "after thoroughly reviewing your Form I-130, any interview testimony, and the record of evidence," and further describes statements Respondent and her spouse made "during the interview." *See* Exhibit 5.

Despite solid records of respondent's community ties and compliance with immigration history and no indication she represents any danger or intends to fail to comply with immigration proceedings, on August 7, 2026, ICE took Respondent into custody at San Diego International Airport where she was departing on a domestic flight. *See* Exhibit 1. Respondent had not departed from, and did not arrive in, the United States; her travel was entirely domestic and within the United States. A Form I-200, Warrant for Arrest of Alien, was issued the same day. The warrant does not specify any reason for the arrest besides her inadmissibility given she is out of status. No assessment regarding her flight risk and public danger were made when deciding to take her into custody. *See* Exhibit 1.

Following her arrest, DHS served Respondent with a Notice to Appear (Form I-862) on August 7, 2026, charging her as removable under section 237(a)(1)(B) of the Act, as a nonimmigrant who remained in the United States beyond the period authorized. *See* Exhibit 1. The Notice to Appear was filed with this Court on or about August 7, 2026, and jurisdiction over the removal proceedings vested upon that filing. 8 C.F.R. § 1003.14(a). Respondent has been detained at the Otay Mesa Detention Center since August 7, 2026, and her master calendar hearing is scheduled for August 17, 2026. *See* Exhibit 2. Pleadings have not been taken; Respondent has admitted no factual allegation and conceded no charge, and nothing in this Motion is intended or should be construed as a concession as to removability. The relief requested here concerns custody alone, and the record of these bond proceedings is separate from the record of the removal proceedings. 8 C.F.R. § 1003.19(d); EOIR Policy Manual, Part II (Immigration Court Practice Manual), Ch. 8.3(e)(5).

On August 10, 2026 — three days after Respondent was detained — USCIS issued a Request for Evidence in connection with the Form I-130, requesting additional documentation regarding the bona fides of the marriage. The issuance of the RFE does not indicate that USCIS intends to deny the petition or that the marriage is not bona fide; rather, it simply reflects a preliminary determination that the evidence initially submitted was insufficient to establish the bona fides of the marriage and requests additional submission. The response deadline is November 2, 2026. *See* Exhibit 5. Respondent intends to comply with this timeline and provide all additional evidence to permit a favorable adjudication of the petition. Undersigned counsel is preparing the response and will timely file it.

Respondent has no criminal convictions and no criminal arrests, in the United States or in any other country. A certificate issued by the Federal Police of Brazil on August 10, 2026, following a search of Brazil's National Criminal Information System (SINIC), and by the Civil Police of Paraná, her home state, confirms that Respondent has no criminal record in her country of nationality. *See* Exhibit 9. She has never previously been placed in removal proceedings, has never been ordered removed, and has never been the subject of an in absentia order.

Respondent is detained under INA § 236(a), 8 U.S.C. § 1226(a), and is therefore eligible for a custody redetermination by this Court.

Respondent has been under continuing psychiatric care for an anxiety disorder and has been prescribed desvenlafaxine, 50 mg, two capsules daily, which she took without interruption prior to her detention. Her treating psychiatrist, Dr. Ana Paula Ribeiro Barnabé (CRM 38274-PR; RQE 30680), reports that Respondent has remained on that medication continuously since at least February 2026 and was clinically stable on it. *See* Exhibit 11. Respondent has not received the medication at any point since she was taken into custody on August 7, 2026. That abrupt discontinuation carries a clinically significant risk of withdrawal symptoms, and that continuity of treatment is necessary to maintain Respondent's health and stability.

If released, Respondent will resume care under her spouse's supervision at the marital residence, which will allow her to remain stable and available for all proceedings in this matter.

II. THIS COURT HAS JURISDICTION TO REDETERMINE RESPONDENT'S CUSTODY

A. Respondent Was Inspected and Admitted and Is Detained Under INA § 236(a)

8 C.F.R § 1003.19(a) provides that custody determinations made by DHS pursuant to 8 C.F.R part 1236 may be reviewed by an Immigration Judge. Accordingly, The Immigration Judge is authorized to exercise the authority in section 236 of the Act to release the alien and determine the amount of bond, *if any*, for such release. 8 C.F.R. § 1236.1(d)(1).

INA § 236(a), 8 U.S.C. § 1226(a), authorizes the detention of a noncitizen "pending a decision on whether the alien is to be removed from the United States," and expressly permits release on conditional parole or on bond of at least $1,500. As the Supreme Court has explained, "as long as the detained alien is not covered by § 1226(c), the Attorney General 'may release' the alien on 'bond … or conditional parole,'" and federal regulations provide that noncitizens detained under § 1226(a) receive bond hearings at the outset of detention. *Jennings v. Rodriguez*, 583 U.S. 281, [288–89] (2018) (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).

Conditional parole may also be granted upon a determination by the Attorney General that such release is in the public interest. The Attorney General has delegated this authority to certain designated officials by regulation. 8 C.F.R. § 2287.5(e)(2); *Matter of Patel*, 15 I&N Dec. 666, 666 (BIA 1976). Conditional parole may be identified as release on recognizance. *Cf. Brief for Petitioners at 6, Jennings v. Rodriguez,* 583 U.S. 281 (2018) (No. 15-1204).

Respondent presented herself for inspection at a port of entry and was admitted as a B-2 nonimmigrant on March 29, 2024. Her Form I-94 documents that admission. *See* Exhibit 3. Her detention is therefore governed by INA § 236(a), and this Court has authority to redetermine its conditions. 8 C.F.R. §§ 1003.19, 1236.1. DHS's own charging document confirms as much *See* Exhibit 1. The NTA reflects that Respondent "was admitted to the United States at Los Angeles on or about March 29, 2024, as a nonimmigrant Visitor for Pleasure" and charges her under section 237(a)(1)(B) of the Act — a provision that, by its express terms, reaches only a noncitizen who is removable "after admission as a nonimmigrant." *Id.* DHS has therefore itself determined, in the very document that initiated these proceedings, that Respondent is a person who was admitted and is not an applicant for admission. This fact is undisputed.

B. Respondent Is Not an Applicant for Admission and INA § 235(b) Does Not Apply

The Board's recent decisions limiting bond eligibility have no application here. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board held that an applicant for admission arrested while arriving in the United States is detained under INA § 235(b) and is ineligible for release on bond under INA § 236(a). In *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board extended that reasoning to noncitizens who are present in the United States without admission.

Neither decision reaches the Respondent. She did not enter without inspection and is not an applicant for admission; she was inspected and admitted, and her Form I-94 so reflects this as does DHS's Notice to Appear. *See* Exhibits 1 and 3. She was not arriving in the United States when apprehended; she was within the interior of the United States, about to travel on a domestic flight. She is not a person "present in the United States without having been admitted" within the meaning of INA § 235(a)(1). INA § 236(a) governs.

Nor is Respondent an "arriving alien" as that term is defined at 8 C.F.R. § 1001.1(q). The regulatory bar on custody redetermination for arriving aliens, 8 C.F.R. § 1003.19(h)(2)(i)(B), is therefore inapplicable. *See Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *see also Matter of Oseiwusu*, 22 I&N Dec. 19, 20 (BIA 1998).

C. Respondent Is Not Subject to Mandatory Detention Under INA § 236(c)

Respondent has no criminal convictions and no criminal history. She has not been charged under any provision of INA § 236(c), and none of the categories set out at 8 C.F.R. § 1003.19(h)(2)(i) applies to her. *See* Exhibit 1.

D. Venue Is Proper Before This Court

A request for custody redetermination is made, in order of preference, to the Immigration Court having jurisdiction over the place of detention. 8 C.F.R. § 1003.19(c)(1). Respondent is detained at the Otay Mesa Detention Center, which is within this Court's jurisdiction, and this Court also has administrative control over her removal proceedings. *See* Exhibit 2. *See* EOIR Policy Manual, Part II (Immigration Court Practice Manual), Ch. 8.3(c)(3).

III. LEGAL STANDARD

Respondent is detained under INA § 236(a), 8 U.S.C. § 1226(a), which grants discretion to continue detention or to release a noncitizen on bond or conditional parole during the pendency of removal proceedings.

Section 236(a)(2) of the Act affords this Court two distinct means of releasing a noncitizen from custody: release on bond of at least $1,500, or release on conditional parole — the mechanism by which a noncitizen is released on her own recognizance, without the posting of a monetary bond. INA § 236(a)(2)(A)–(B), 8 U.S.C. § 1226(a)(2)(A)–(B). Conditional parole under section 236(a)(2)(B) is a distinct statutory procedure, separate from parole under section 212(d)(5)(A) of the Act. *Matter of Castillo-Padilla*, 25 I&N Dec. 257, 258–63 (BIA 2010).

The showing required is the same for either form of release. The respondent must demonstrate that her release "would not pose a danger to property or persons" and that she "is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8). Section 236(a)(2)(B) imposes no additional requirement, and conditional parole is not conditioned on the "urgent humanitarian reasons or significant public benefit" showing that governs parole under section 212(d)(5)(A) of the Act. *See Matter of Castillo-Padilla*, 25 I&N Dec. at 258–63. Where a respondent satisfies the danger and flight-risk inquiry, release on conditional parole is available to her on the same terms as release on bond.

That reading accords with the Board's longstanding view that a noncitizen "generally is not and **should not be detained or required to post bond** except on a finding that he is a threat to the national security or that he is a poor bail risk". *Matter of Patel*, 15 I&N Dec. 666, 666 (BIA 1976) (emphasis added). *Patel* treats detention and the imposition of a monetary bond as two forms of the same restraint, each requiring the same predicate finding. The Board extended the national security aspect of custody determinations to include the assessment of dangerousness in the general criminal context, accounting for criminal background. See Matter of Fatahi, 26 I&N Dec. 791 (BIA 2016); see also Matter of Andrade, 19 I&N Dec. 488, 490 (BIA 1987); Matter of Drysdale, 20 I&N Dec. 815, 816−18 (BIA 1994).

The Court first determines whether the respondent has established that she is not a danger to the community; only if that showing is made does the Court proceed to assess risk of flight and the amount of bond necessary to secure her appearance. *Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009).

An 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 one factor over others, as long as the decision is reasonable." *Matter of Guerra*, 24 I&N Dec. at 40. The factors that may be considered include: whether the respondent has a fixed address in the United States; her length of residence; her family ties, and whether they may entitle her to reside permanently in the United States in the future; her employment history; her record of appearance in court; her criminal record; her history of immigration violations; any attempts to flee prosecution or otherwise escape from authorities; and her manner of entry into the United States. *Id.*

IV. ARGUMENT

A. Respondent Is Not a Danger to the Community

There is no evidence that Respondent poses any danger to the safety of persons or property. She has no criminal convictions and no criminal arrests, in the United States or in Brazil, as confirmed by the certificate of the Federal and State Police of Brazil. *See* Exhibit 9. Respondent was unable to obtain her U.S. criminal records due to her current detention. Nevertheless, the record before the Court strongly demonstrates her law-abiding conduct, including through the testimony of multiple witnesses attesting to her lack of a criminal history. *See* Exhibit 10.

DHS has not alleged any conduct on Respondent's part bearing on dangerousness. She has never been accused of violence, of any offense involving controlled substances, of any driving offense, or of any other conduct that has been held relevant to the danger inquiry. *Cf. Matter of Siniauskas*, 27 I&N Dec. 207 (BIA 2018).

Likewise, nothing in the record raises any national security concern, and DHS has made no such allegation. *See Matter of Fatahi*, 26 I&N Dec. at 793–94.

To the contrary, Respondent devotes her time to uncompensated community service. She volunteers with a children's program at a jiu-jitsu academy in the Ocean Beach community of San Diego, where she works with children with autism. That service is described by a witness with direct personal knowledge: the mother of two autistic children attests that Respondent volunteers "helping kids like mine with autism learn how to use their bodies and brains in new ways," and that she does so in a manner that makes challenging classes accessible and enjoyable for the children. *See* Exhibit 10 (Laurel Browning’s Letter of Support).

Respondent has therefore carried her burden on the threshold question of dangerousness, and the Court may proceed to consider risk of flight. *Matter of Urena*, 25 I&N Dec. at 141.

B. Respondent Is Not a Flight Risk

Every factor identified in *Matter of Guerra* weighs in Respondent's favor. 24 I&N Dec. at 40.

Record of appearance and engagement with immigration authorities. This is the most probative evidence before the Court. **Three times, the government directed Respondent to appear or to act, and three times she did exactly that:** she filed her Form I-539 before her authorized stay expired, *see* Exhibit 4; she appeared for the collection of her biometrics on May 1, 2026, as directed; and on July 13, 2026 — twenty-five days before she was detained — she voluntarily entered a federal immigration facility at 1325 Front Street in San Diego and presented herself, with her spouse, for her adjustment-of-status interview, *see* Exhibits 5-6. Her appearance at the interview is established not by her own assertion but by DHS's own document: the Request for Evidence confirms the Respondent and her spouse appeared for the interview *See* Exhibit 5. A person who intends to abscond does not walk into a federal immigration office and answer an officer's questions under oath.

Respondent's engagement with the immigration system has been consistent. After her Form I-539 was denied, she did not conceal herself: she and her spouse later affirmatively filed a Form I-130 and Form I-485, placing her name, her address, and her complete immigration history in the government's hands. *See* Exhibits 4-6. She has never failed to appear for any immigration proceeding, interview, or biometrics appointment. She has consistently complied with all requirements of her immigration proceedings and has demonstrated no intent to violate any conditions imposed upon her.

Family ties that may entitle Respondent to reside permanently in the United States. Respondent is married to a United States citizen and is the beneficiary of a pending Form I-130 and an applicant for a concurrently filed Form I-485. *See* Exhibits 5-7. As the spouse of a United States citizen, she is an immediate relative within the meaning of INA § 201(b). Because she was inspected and admitted, she may apply for adjustment of status under INA § 245(a), and the bar at INA § 245(c)(2) for failure to maintain lawful status does not apply to her. *Guerra* directs the

Court to consider whether family ties "may entitle the alien to reside permanently in the United States in the future." 24 I&N Dec. at 40 – this is precisely the case before this Court.

Respondent does not overstate the posture of those applications. USCIS has issued a Request for Evidence on the Form I-130. *See* Exhibit 5. A Request for Evidence is not a denial and is not a Notice of Intent to Deny; USCIS has made no adverse determination. What matters for present purposes is that Respondent's statutory eligibility is intact and that she is under a firm, non-extendable deadline of November 2, 2026 to respond. A respondent facing an unextendable deadline in an active application for lawful permanent residence has every incentive to remain available and engaged, and none to disappear.

Manner of entry. Respondent entered the United States lawfully, presenting herself for inspection at a port of entry on a valid B-2 visa. She did not evade inspection, did not use fraudulent documents, and did not enter surreptitiously. *See* Exhibit 3.

Fixed address and length of residence. Respondent has resided continuously in the United States since March 29, 2024 — more than two years — and lives with her spouse at 4912 Muir Avenue, Apartment 5, San Diego, California 92107. The address appears on their marriage certificate, on utility accounts, on a joint bank account statement addressed to both spouses, and in USCIS's own correspondence to each spouse. *See* Exhibits 7, 8 and 12.

Community ties. Respondent is deeply embedded in the Ocean Beach neighborhood of San Diego, and she has lived there openly. She volunteers, without compensation, with a children's program at a local jiu-jitsu academy that serves children with autism, and she has been present in the ordinary life of the neighborhood — behind the counter of a local coffee shop where she was known to regular customers working as barista, and photographing community events and the people around her. Twelve letters of support are attached as Exhibit 10 submitted by friends, training partners, and family members who have known her for periods ranging from one to more than two years. Their accounts are consistent: Respondent is described as reliable, generous, and deeply invested in the people around her, and every writer states an independent belief that she will comply with her obligations in these proceedings. Beyond those letters, more than one hundred members of Respondent's community have contributed to a fund organized by her spouse. These are not the ties of a person who would disappear; they are the ties of a person with a great deal to return to. *See* Exhibit 10.

No criminal record and no attempt to flee. Respondent has no criminal record. She has never fled prosecution, never absconded, and never concealed her whereabouts. She was located at an airport, traveling openly under her own name on a domestic flight. *See* Exhibit 9.

Willingness to comply with conditions of release. Respondent is prepared to comply with any conditions this Court or DHS may impose, including reporting requirements, electronic monitoring, travel restrictions, and continued residence at 4912 Muir Avenue, Apartment 5. Her spouse has guaranteed to provide support, supervision and assistance to help ensure her full compliance with any such requirements. *See* Exhibit 12.

Proposed obligor. Respondent's spouse, Alina Carrie Grayeske (of record with USCIS as Alina Carrie Guasti), is a United States citizen by birth and is prepared to serve as obligor and post bond. She understands that she assumes responsibility for ensuring Respondent's appearance and that the bond will be breached and the funds forfeited if Respondent fails to appear. *See* Exhibit 12.

D. Release Without Bond Is Appropriate in This Case

Section 236(a)(2) of the Act affords this Court two means of ordering Respondent's release: bond of at least $1,500, or conditional parole, meaning release on her own recognizance, without the posting of a monetary bond. INA § 236(a)(2)(A)–(B). The showing required is identical for both, and Respondent has made it: she is not a danger to persons or property, presents no threat to the national security, and is not a flight risk.

The Board has long held that a noncitizen "generally is not and should not be detained **or required to post bond** except on a finding that he is a threat to the national security or that he is a poor bail risk." *Matter of Patel*, 15 I&N Dec. 666, 666 (BIA 1976) (emphasis added). *Patel* treats detention and the imposition of a monetary bond as two forms of the same restraint, each requiring the same predicate finding. Neither predicate is present here. Respondent has no criminal history of any kind, in the United States or in Brazil. *See* Exhibit 9. DHS has alleged no fact bearing on dangerousness, and has charged a single ground of removability that involves no conduct beyond remaining past an authorized stay. *See* Exhibit 1.

Nor is a monetary bond necessary to secure Respondent's appearance, because the record already establishes that she appears. Three times the government directed her to act, and three times she did: she filed her Form I-539 before her status expired; she appeared for biometrics on May 1, 2026 (Exh. 7); and on July 13, 2026 she walked into a federal immigration office and answered a government officer's questions under oath. *See* Exhibits 4-6. She did all of this while out of custody and while no bond secured her appearance. A bond would purchase nothing that Respondent's own record has not already demonstrated.

What binds Respondent to this district is not money but her deep ties to her community. Her spouse, her home, her closest relationships, and her pending applications for lawful permanent residence are all here, and none of them can be carried anywhere else. Respondent is prepared to accept any condition of supervision this Court or DHS may impose, including reporting requirements, electronic monitoring, travel restrictions, and continued residence at 4912 Muir Avenue, Apartment 5.

Respondent therefore respectfully requests release on conditional parole pursuant to INA § 236(a)(2)(B), subject to such conditions of supervision as the Court deems appropriate.

E. A Reasonable Bond of Not More Than $1,500 Is Appropriate

Bond is not punitive. Its function is to secure the respondent's appearance at future proceedings. *Matter of Patel*, 15 I&N Dec. at 667. Where a respondent has a United States citizen spouse, pending applications for lawful permanent residence, a fixed shared residence, community ties, no criminal history, and a documented record of appearing when directed, a bond in the statutory minimum amount of $1,500 is more than sufficient. INA § 236(a)(2)(A).

A bond set beyond the means of Respondent and her proposed obligor would operate as an order of detention while serving no legitimate regulatory purpose. Thus, in the alternative, Respondent respectfully requests that the Court set bond in the minimum amount permitted by law, subject to any reasonable conditions the Court may impose.

V. CONCLUSION

Respondent entered the United States lawfully on a valid visa. She has no criminal history of any kind. She is married to a United States citizen, lives with her spouse at a fixed address documented in the government's own records, volunteers with children in her community, and has a pending application for lawful permanent residence with a firm deadline she intends to meet. Twenty-five days before ICE detained her, she walked into a federal immigration office and answered a government officer's questions. She has never missed an immigration obligation in her life.

On this record, continued detention is not justified under INA § 236(a). Respondent has established that she is neither a danger to the community nor a flight risk.

WHEREFORE, Respondent respectfully requests that this Court: (1) grant this Motion for Bond Redetermination; (2) schedule a custody redetermination hearing at the earliest available date; (3) upon such hearing, order Respondent released on conditional parole pursuant to INA § 236(a)(2)(B), subject to such conditions of supervision as the Court deems appropriate; (4) in the alternative, set bond in an amount not to exceed $1,500, or in the minimum amount permitted by law; and (5) grant such other and further relief as the Court deems just and proper.

Respectfully,

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