Matter of G-M-T-, Respondent

Decided November 10, 2026

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

Where a party offers an alternative proffer concerning a fact material to the bond determination or challenges a proffer as uncorroborated or inconsistent with information in the record, the Immigration Judge should address the alternative proffer or challenge and provide, in the bond memorandum, a reasoned explanation for the weight given to each account.

FOR THE RESPONDENT: Alejandra Campos Klien, Esquire, Lakewood, Colorado

FOR THE DEPARTMENT OF HOMELAND SECURITY: Eric Marc Allmendinger, Counsel

BEFORE: Board Panel: GEMOETS and VOLKERT, Appellate Immigration Judges, PICOS, Temporary Appellate Immigration Judge.

PICOS, Temporary Appellate Immigration Judge:

The Department of Homeland Security ("DHS") appeals the Immigration Judge's decision ordering the respondent's release on bond in the amount of $15,000. The sole issue on appeal is whether the respondent poses a flight risk. We conclude that the Immigration Judge's decision on this issue is insufficient for appellate review and will vacate the Immigration Judge's decision and remand the record for the entry of a new decision.

We review Immigration Judges' factual findings, including credibility findings, for clear error. 8 C.F.R. § 1003.1(d)(3)(i) (2026). We review all other issues in appeals from Immigration Judges' decisions de novo, including issues of law, discretion, and judgment. 8 C.F.R. § 1003.1(d)(3)(ii). Whether an alien poses a flight risk is a question of judgment the Board reviews de novo, while the underlying factual findings are reviewed for clear error. *Matter of Dobrotvorskii*, 29 I&N Dec. 211, 212 (BIA 2025). In these custody determination proceedings, the respondent bears the burden of establishing that he is not a flight risk. *See Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).

DHS argues that the record does not support the Immigration Judge's conclusion that the respondent will not pose a flight risk. DHS challenges, inter alia, the Immigration Judge's assignment of weight to the respondent's

Form I-589, Application for Asylum and for Withholding of Removal, that was filed in his separate removal proceedings. It argues that the respondent's Form I-589 application, in which the respondent seeks only statutory withholding of removal and protection under the Convention Against Torture ("CAT"),[1] does not obviate his risk of flight because neither form of protection results in a lawful pathway towards legal residence in the United States. Additionally, DHS challenges the Immigration Judge's primary reliance on the respondent's counsel's proffered facts about the respondent's flight risk when evaluating his burden of proof, including information about the extent of his family ties and parental obligations, the fulfillment of his tax obligations, and the legality of his business operations, without requiring further direct or circumstantial corroboration.

I. PROFFERS IN BOND PROCEEDINGS

Bond proceedings often precede the full development of the record in a respondent's separate removal proceedings and are necessarily less formal, generally offering only a preliminary evaluation of the facts. *See Matter of R-A-V-P-*, 27 I&N Dec. 803, 804 (BIA 2020). Accordingly, the regulations provide that an Immigration Judge may base a custody or bond determination on "any information that is available to the Immigration Judge or that is presented to him or her by the alien or the [DHS]." 8 C.F.R. § 1003.19(d) (2026). Federal courts routinely permit parties in pretrial detention proceedings to present information by proffer rather than live testimony. *See, e.g.*, *United States v. Stone*, 608 F.3d 939, 948–49 (6th Cir. 2010) ("[C]onducting a bail hearing by proffer is acceptable under the law and at the discretion of the district court."); *United States v. Gaviria*, 828 F.2d 667, 669 (11th Cir. 1987) (holding that the Bail Reform Act permits the parties to proceed by proffer at the court's discretion). We therefore interpret the regulations as allowing Immigration Judges to consider proffers in custody redetermination proceedings. *See United States v. Vane*, 117 F.4th 244, 250–52 (4th Cir. 2024) (collecting cases and explaining that a Federal detention statute's use of the word "information" rather than "evidence" signals that the judicial officer should consider a broad swath of material unrestricted by admissibility rules).

Immigration Judges therefore have broad discretion to conduct bond proceedings efficiently based on proffers. *See Matter of Guerra*, 24 I&N Dec. at 39. The ability to proceed by proffer, however, does not eliminate

[1] The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20, 1465 U.N.T.S. 85 (entered into force for the United States Nov. 20, 1994).

the requirement that the parties support their respective positions with reliable and probative information. *See Matter of Dobrotvorskii*, 29 I&N Dec. at 213. An Immigration Judge must assess whether the proffered information has sufficient indicia of reliability to credit the underlying assertions, including whether the bond record contains corroborating or contradictory evidence. *See, e.g.*, *Matter of R-A-V-P-*, 27 I&N Dec. at 806 (finding that a proffer of a bond sponsor was not particularly probative of flight risk where no evidence of the sponsor's immigration status or ability to support the respondent was submitted); *Matter of Velasquez*, 19 I&N Dec. 377, 384 (BIA 1986) (illustrating that an Immigration Judge may reasonably disregard a proffer of testimony where it is unsupported by evidence or contradicted by other direct or circumstantial evidence).

In certain circumstances, a facially reliable, undisputed proffer by counsel, as an officer of the court, may reasonably be relied upon even absent other corroborative proof. *See United States v. Perez-Gomez*, 638 F.2d 215, 217 (10th Cir. 1981) ("As an officer of the court an attorney may not knowingly make a false statement to the court . . . ."). In contrast, an unsupported, contested proffer is properly entitled to only limited weight. *See Matter of Rodriguez Pena*, 29 I&N Dec. 358, 360 (BIA 2025) (finding that statements by the respondent's counsel in a bond proceeding were not entitled to the same weight as evidence where the record lacked supporting proof of the relevant bond factors). Since Immigration Judges have discretion to conduct bond proceedings in a manner that balances efficiency with informational adequacy, they need not solicit sworn testimony to resolve an inadequate proffer and may base a bond determination on documentary information alone. *See Matter of Guerra*, 24 I&N Dec. at 40–41 (recognizing that, in making a bond determination, an Immigration Judge may consider any evidence in the record that is probative and specific); 8 C.F.R. § 1003.19(d) (stating that a bond determination "may be based on any information that is available to the Immigration Judge or that is presented to him or her by the alien or [DHS]").

A proffer may be placed in dispute in more than one way. The opposing party may offer an alternative proffer, that is, a competing account of the same fact. The opposing party may also challenge a proffer because it is not corroborated by reliable evidence or because it is inconsistent with information in the record. Each challenge questions the reliability of the proffered information. In addressing challenges to proffers, the Immigration Judge should consider the information presented by both parties in light of the record as a whole. Where the parties offer conflicting proffers regarding a material fact, or where one party challenges a proffer as uncorroborated or

inconsistent with the record, the Immigration Judge should not simply accept, without explanation, one party's proffer over the other party's alternative proffer, or over the opposing party's challenge based on the lack of corroboration. Instead, the Immigration Judge should reasonably explain the basis for the weight given to the proffer, identifying any corroborating documentation and other considerations bearing on the information's reliability.

We recognize that bond hearings are informal and often brief, and an Immigration Judge may announce a custody determination orally without detailed findings. *See Matter of Shentu*, 29 I&N Dec. 595, 597 (BIA 2026) ("The evidentiary review conducted in bond proceedings is based on 'a preliminary evaluation of the facts and evidence' and is necessarily more flexible and less structured than an adversarial hearing on the merits." (quoting *Matter of R-A-V-P-*, 27 I&N Dec. at 804)). However, clear and complete findings of fact and legal analysis are necessary for meaningful appellate review. *See Matter of S-H-*, 23 I&N Dec. 462, 464–65 (BIA 2002); *see also Matter of A-P-*, 22 I&N Dec. 468, 477 (BIA 1999) ("[T]he Immigration Judge is . . . responsible for the substantive completeness of the decision."). Where a bond determination is appealed, an Immigration Judge should explain his or her determination in a bond memorandum. *See, e.g.*, *Matter of Urena*, 25 I&N Dec. 140, 140 (BIA 2009) ("The reasons for the Immigration Judge's custody order are set forth in a bond memorandum . . . ."). Specifically, we hold that where a party offers an alternative proffer concerning a fact material to the bond determination or challenges a proffer as uncorroborated or inconsistent with information in the record, the Immigration Judge should address the alternative proffer or challenge and provide, in the bond memorandum, a reasoned explanation for the weight given to each account. Such an explanation permits meaningful review of whether the Immigration Judge exercised independent judgment in resolving the disputed issue. *See Matter of J-H-M-H-*, 29 I&N Dec. 278, 280 (BIA 2025).

II. APPLICATION TO THE RESPONDENT

The Immigration Judge did not clearly err in finding based on the record evidence that the respondent entered the United States without inspection in 2011, has no criminal convictions, has a fixed address, and owns two vehicles. *See* 8 C.F.R. § 1003.1(d)(3)(i); *see also Matter of Guerra*, 24 I&N Dec. at 40 (discussing factors to consider in determining whether an alien merits release on bond). However, in resolving other disputed facts relevant to the bond determination, the Immigration Judge's bond memorandum largely relies on unsupported statements proffered by the respondent and

his counsel. It does not meaningfully address DHS' challenges to uncorroborated proffers. It also does not explain why the respondent's account was more persuasive than DHS' or identify corroborating documents supporting the disputed assertions.

For example, DHS challenged the legitimacy of the respondent's claimed business in the United States based on the absence of supporting tax returns. *See Matter of Guerra*, 24 I&N Dec. at 40 (listing employment history as a relevant flight risk factor). Despite DHS' challenge and the disavowal by the respondent's counsel of any knowledge related to the respondent's tax filings, the Immigration Judge credited the respondent's assertion that he has paid taxes since 2012. This statement is uncorroborated by any evidence in the record, and the Immigration Judge did not explain her basis for crediting the challenged statement.

DHS also challenged the respondent's assertions about his family ties in the United States. *See id.* (listing this as a flight risk factor). The respondent proffered vague and inconsistent information about his immediate family members in the United States, including whether he has a United States citizen child. *See, e.g.*, *Matter of Patel*, 15 I&N Dec. 666, 667 (BIA 1976) (illustrating that this factor may mitigate flight risk). Although the respondent's character letters from friends and family describe him as having three children, he offered no objective documentation of his children's ages, immigration statuses, or whereabouts, such as birth certificates or school records. Further, although the respondent's counsel identified one of the children as a United States citizen, she described that child as both a son and a daughter at various times throughout the proceeding, calling into question the reliability of this proffer. In addition, one of the respondent's proposed sponsors stated that the respondent arrived in the United States with his children, contradicting the assertion that the respondent has a child born in the United States. Therefore, the Immigration Judge should have explained her finding that the respondent's youngest child is a United States citizen, as inconsistent information was provided about whether the respondent has a United States citizen child, and if so, how many.

The Immigration Judge also relied on the respondent's proffer that he filed a Form I-589 in his separate removal proceedings as a factor mitigating flight risk. The respondent, however, did not provide a copy of this application or any evidence in support of the application during his bond proceedings, and the Immigration Judge did not explain her finding that the application was "non-frivolous."

Moreover, the Immigration Judge's bond memorandum does not explain how the pendency of that application bears on the respondent's likelihood of obtaining relief and his incentive, if any, to appear for future hearings. The respondent's counsel clarified that this application is for withholding of removal and CAT protection, which are nondiscretionary forms of relief and protection requiring high burdens of proof. *See Matter of A-L-S-*, 29 I&N Dec. 794, 796 (BIA 2026) (faulting an Immigration Judge assessing flight risk for not considering why a "respondent never [before] sought [asylum and related] relief despite residing unlawfully in the United States for over a decade, or how [he] would be eligible for such relief"). As explained in *Matter of Andrade*, 19 I&N Dec. 488, 490 (BIA 1987), an alien with a low likelihood of being granted relief has a weaker motivation to appear for his or her removal proceedings than an alien with a high likelihood of relief. Here, the record is devoid of evidence regarding the strength of the respondent's withholding of removal and CAT claims, and the respondent does not claim to have a family-based path to lawful status. *See Matter of R-A-V-P-*, 27 I&N Dec. at 805 (noting the significance of a "probable path to lawful status" in a flight risk determination). In evaluating the respondent's prospects for relief as they pertain to the flight risk determination, the Immigration Judge should consider the record as a whole. *See Matter of A-W-M-K-*, 29 I&N Dec. 805, 807–08 (BIA 2026) (illustrating that speculative prospects for relief from removal may show the respondent poses a flight risk that cannot be mitigated by a bond).

Finally, the Immigration Judge relied on the agreement of the respondent's brother and sister-in-law to sponsor him as meaningfully mitigating flight risk. "The existence of a valid, reliable, and credible sponsor is relevant to the determination of flight risk." *Matter of Dobrotvorskii*, 29 I&N Dec. at 213–14. However, the nature and extent of the proposed support must be considered in assessing the weight it warrants. *See id*. 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. Here, the Immigration Judge did not explain how the respondent's Kansas-based sponsors would assist him in appearing at his Colorado immigration proceedings or otherwise reduce his incentive or ability to abscond. Moreover, the sponsors' letters principally address the respondent's character and do not identify concrete assistance they would provide to facilitate his compliance with future immigration proceedings.

III. CONCLUSION

An Immigration Judge's discretion to consider "any information," 8 C.F.R. § 1003.19(d), in a bond proceeding permits reliance on proffers but does not dispense with the need to resolve material factual disputes or adequately explain the findings underlying the bond determination. *See Matter of Guerra*, 24 I&N Dec. at 40 (noting that the Immigration Judge has broad discretion in deciding what factors to consider in making a bond determination and may give greater weight to some factors over others as long as the decision is reasonable); *see also Matter of M-S-V-*, 30 I&N Dec. 130, 135 (BIA 2026) (disagreeing with the Immigration Judge that the alien was not a flight risk because, among other reasons, the Immigration Judge did not explain why the alien's intent to file an asylum application bore positively on his flight risk determination). An Immigration Judge may credit a proffer without documentary support. But where the opposing party offers an alternative proffer on a material fact or challenges a proffer because it lacks corroboration or is inconsistent with other record evidence, the Immigration Judge should assess the reliability and probative value of the information presented and explain the weight attributed to each proffer. Those explanations need not be given at the bond hearing, but they should appear in the bond memorandum so that the Board may review the Immigration Judge's determination on appeal.

Because the Immigration Judge's bond memorandum did not adequately resolve the material factual disputes bearing on flight risk, we are unable to conduct meaningful de novo review of the Immigration Judge's determination that the respondent satisfied his burden of proof. *See Matter of Dobrotvorskii*, 29 I&N Dec. at 212; 8 C.F.R. § 1003.1(d)(3)(ii); *see also Matter of S-H-*, 23 I&N Dec. at 464–65 (explaining that, because of the Board's limited fact-finding ability, Immigration Judges' decisions must include clear and complete findings of fact that are supported by the record and in compliance with controlling law); *Matter of A-P-*, 22 I&N Dec. at 477 (providing that Immigration Judges' decisions must be substantively complete). On remand, the Immigration Judge should consider DHS' challenges to the respondent's proffers and, in accordance with this decision, assess the reliability of the disputed information in light of the record as a whole, including the documentary evidence, and explain in the bond memorandum the weight given to each disputed account. After resolving the disputed factual matters, the Immigration Judge should consider the totality of the relevant information and determine whether the respondent has met his burden of establishing that

he does not present a flight risk. Accordingly, the following orders will be entered.

ORDER: The Immigration Judge's decision ordering the respondent released on a $15,000 bond is vacated.

FURTHER ORDER: The record is remanded for further bond proceedings consistent with the foregoing opinion and for the entry of a new decision.