

# Bond Proceedings

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## What is Bond?

- Bond is a promise to Immigration and Customs Enforcement (ICE) that if the detained immigrant is released from detention, s/he will go to all future court hearings, refrain from being a danger to the community, and do what the Judge orders them to do.
- The lowest bond the Judge can give is \$1,500. There is no maximum (but release on recognizance is possible in some cases).
- Remember, if you get a bond it does NOT mean your case is over.

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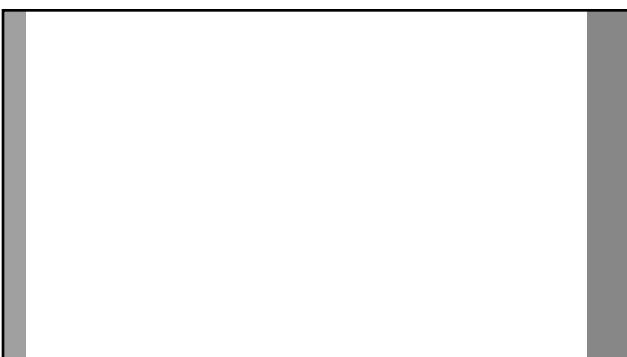
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## STEP 1: ICE INITIAL CUSTODY DETERMINATION

- When someone is first arrested by ICE they are taken to a local ICE processing office.
- ICE will make an initial custody determination. (The second custody determination will be the bond hearing before the Immigration Judge).
- An attorney can attempt to negotiate the bond with ICE by simply calling or emailing the ICE office. Currently, the Cleveland ICE office is very reluctant to give bonds and often tell attorneys to "take it up with the Judge."
- In order to negotiate with ICE, attorney must file a Form G-28 "Notice of Entry of Appearance as Attorney or Accredited Representative." You can also reach out to the government's attorneys to attempt to negotiate a bond.
- Once the ICE officer determines custody, he or she will fill out Form I-286, the "Notice of Custody Determination."

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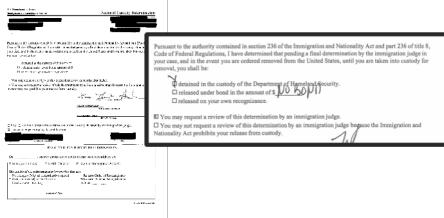


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### Example of Notice of Custody Determination




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## Who is NOT Eligible for Bond?

- Individuals who are considered an "*arriving alien*" may not be eligible for a bond. An "*arriving alien*" is basically someone who attempted an entry at a port of entry but was not admitted.
- Immigrants with certain **criminal convictions or terrorism concerns** can be subject to mandatory detention.
- If ICE believes your client is subject to mandatory detention then ICE will check the following boxes on the I-286: (1) "detained in the custody of the Department to Homeland Security" and (2) "you may not request a review of this determination by an immigration judge because the Immigration and Nationality Act prohibits your release from custody."
- NOTE: These determinations can be challenged before the Immigration Judge.

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## STEP 2: HOW DO YOU REQUEST A BOND HEARING BEFORE THE IJ?

- You must ask for a separate bond hearing before the judge. Do not confuse bond with the master calendar hearing.
- You must file an EOIR-28 "Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court" to represent your client in Immigration Court.
- To request a hearing, you may do so orally during a master calendar hearing or you may file a Motion entitled "Bond Redetermination"
- This hearing will likely be your only opportunity for a bond determination from the Judge, so make sure that you have all of your evidence and witnesses ready!
- NOTE: You can call 1-800-898-7180 to learn of your upcoming court dates however, this system does NOT provide information regarding bond hearings. You must call the Immigration Court Clerk to determine if there is a bond hearing date on your case.

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## Presenting your bond case

- Your client has the burden of proving that he or she (1) does not pose a danger to the community (2) not a threat to national security and (3) is not a flight risk.
- The immigration judge may set a bond as low as **\$1500.00** and there is no maximum amount. This does not preclude you from asking for your client to be released on his/her own recognizance if you have the right case for this.
- The Immigration Judge will usually issue his or her bond decision orally.
- You can move for a bond hearing almost immediately upon detention, but courts will sometimes refuse jurisdiction until a Notice to Appear has been filed.

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## Bond Application

- Motion for Bond Reconsideration
- Cover page for Motion for Bond Reconsideration
- Exhibit List
- Exhibits
- Certificate of Service
- Order of the Immigration Judge

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## Exhibits for bond application

1. LETTER OF SUPPORT FROM SPONSOR CONTAINING THE FOLLOWING:
  - a. Name, immigration status, and relationship to the detainee (ex. Wife, brother, friend and time known)
  - b. Address and how long lived in his or her home
  - c. Indicates if owner or renter of property. Provide proof for either.
  - d. Phone number
  - e. How you will support the detainee (housing, finding a lawyer, transporting to court)
  - f. The letter should be short and must convince the judge that you are truly willing to support the detained person.

NOTE: While it is preferred, the person you are going to live with does NOT have to have legal status. If the person does not have status, it may help to get an additional letter of support and evidence from someone who does have status.
2. COPY OF SPONSOR'S OFFICIAL PHOTO ID IF SPONSOR HAS LEGAL IMMIGRATION STATUS
3. PROOF OF SPONSOR'S ADDRESS
- LETTERS OF SUPPORT FROM FAMILY, EMPLOYER, AND FRIENDS PLUS PROOF OF IDENTIFICATION
- ANY EVIDENCE OF TIES TO COMMUNITY - CHURCH, VOLUNTEER GROUPS ETC.
- ANY EVIDENCE OF DIFFICULTY FACED BY DETAINEE'S FAMILY DURING THEIR DETENTION
- ANY EVIDENCE THAT THEY OWN PROPERTY
- ANY EVIDENCE OF REHABILITATION IF APPLICABLE
  - Letters of support from family, friends, an employer etc. Letters must be accompanied with copy of some form of identification
  - All documents must include detainee's name and A#

## Submitting bond application

- If any exhibits are not in English they need to be translated and a "Certificate of Translation" needs to be included with the exhibits
- Include "Bond worksheet" if you have met with the client and able to answer these questions
- A copy of the entire application needs to be served on government counsel
- File the Immigration Court ASAP!

UNITED STATES DEPARTMENT OF JUSTICE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW IMMIGRATION COURT - ATTN: DETENTION CENTER LUMPMIN, GEORGIA	
Is the Mover of [REDACTED]	File No. [REDACTED]
Is Bond Pending:	
<b>RESPONDENT'S INDEX OF EXHIBITS IN SUPPORT OF BOND</b>	
EXHIBIT (A)	Respondent's Declaration, providing overview of facts relevant to his/her bond. Respondent's identity is established. 17-22
EXHIBIT (B)	Respondent's Birth Certificate, with accompanying [REDACTED] 1981 in the Province Mariano Department of Borneo. Respondent is under a danger to society or a flight risk. 32-23
EXHIBIT (C)	Character Letters from Friends and Family (May 3, 2017). Respondent has a strong family and community ties. 36-37
EXHIBIT (D)	Respondent's High School Diploma and Professional Certification, demonstrating Respondent's education and training, demonstrating Respondent's performance, capacity for learning, and showing work ethic and areas of responsibility. 38-40
EXHIBIT (E)	Letter of Response to Father (May 26, 2017) that he will guarantee and support Respondent pending future hearings. 47
EXHIBIT (F)	Apartment Lease Contract of Renting that Respondent's father resides in [REDACTED] 48
EXHIBIT (G)	Letter of Respondent's Aunt [REDACTED] and Uncle [REDACTED] dated May 26, 2017, certifying that they are willing to support Respondent and assure that Respondent would not pose a danger to society or a flight risk. [REDACTED] is unable to do so. 49
EXHIBIT (H)	Chase Checking Account Statement for Respondent's Aunt [REDACTED] dated March 3, 2017, showing balance of \$1,000.00. 50-51
EXHIBIT (I)	Letter of [REDACTED] (April 24, 2017) certifying that he will support Respondent pending future hearings. [REDACTED] is unable to do so. 52
EXHIBIT (J)	Emergency Assistance Statement for [REDACTED] certifying that he will provide relief from financial hardship. Respondent has a strong likelihood that he will be granted relief from removal. 53
EXHIBIT (K)	Copy of Respondent's pending as a IIR Application for Adjustment of Status, certifying that Respondent has a strong likelihood that he will be granted relief from removal. 54-65
EXHIBIT (L)	Record of Determination/Credit File Worksheet (Index) dated April 2017, certifying that Respondent has a strong likelihood of becoming a citizen and a significant possibility that he claim could be denied. 66-79
EXHIBIT (M)	Record of Years Statement in Proceedings (December 1, 2016) certifying that Respondent cleared his or her case and was released from custody by the Executive Office for Immigration Review. 80-83
EXHIBIT (N)	Letter of Article About Murder of Respondent's Cousin (January 12, 2017) establishing that Respondent's cousin was [REDACTED] because he did not comply with gang activities. 84-85
	Certificate of Service 89

**B. FINDINGS OF THE COURT**

**1. Respondent Cannot Show He is Not a Flight Risk.**

Here, Respondent has not presented sufficient evidence that he is not a flight risk. See *Matter of Drysdale*, 20 I&N Doc. 815-17; see also *Matter of Pineda* 17 I&N Doc. 666.

Respondent also asserts that he is not a flight risk because he has community ties in the United States through his father, mother, and four younger siblings. However, Respondent has not presented any evidence that his father or any of his four younger siblings within the United States, and his siblings are currently applying for relief given their relationship to Respondent. In addition, in proceedings or at risk of being placed in proceedings, this Court finds that they are not in a position to encourage the Respondent to attend all of his hearings. Furthermore, Respondent's relationship with the **United States** government does not guarantee Respondent's presence for future proceedings. Respondent states that he has known Respondent for six years but provides no information as to how and to what extent. See Exh. 1. Respondent also presents no information regarding his own immigration status.

Finally, Respondent is a recent arrival to the United States, having only entered the United States on or about December 1, 2017.

The Court finds that, given the speculative nature of the relief sought, the lack of significant community ties, and his recent entrance into the United States, Respondent has not met his burden of proving that he is not a flight risk. See *Matter of Drysdale*, 20 I&N Doc. 815-17.

Accordingly, the Court enters the following order:

**ORDER**

It is ordered that:

Respondent's request for a bond  
re determination shall be DENIED.

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
DIRECTOR'S OFFICE  
CLEVELAND, OHIO

In the Matter of: [REDACTED]

In Bond Proceedings: [REDACTED]

RESPONDENT'S INDEX OF EXHIBITS IN SUPPORT OF BOND

Memorandum of Law 3-5

EXHIBIT (A) Affidavit of [REDACTED] in Support of Respondent's Application for Bond 6

EXHIBIT (B) Copy of My [REDACTED] Ohio Driver's License December 2017 7

EXHIBIT (C) Birth Certificate of Respondent's U.S. Citizen Name [REDACTED] 8

EXHIBIT (D) Birth Certificate of Respondent's U.S. Citizen Name [REDACTED] 9

Certificate of Service 10

UNITED STATES DEPARTMENT OF JUSTICE  
DIRECTOR'S OFFICE FOR IMMIGRATION REVIEW  
CLEVELAND, OH

IN THE MATTER OF: [REDACTED]

MEMORANDUM OF LAW  
OR BOND PROCEEDINGS  
WATE MARKED TO COURT

Request having been made for a hearing in the United States of America before the Immigration Judge in the above-captioned case, and the parties having agreed to the date and time of hearing, it is hereby

ORDERED,

That the hearing in the above-captioned case is hereby set for the date and time indicated below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
 REQUEST FOR SERVICE OR BOND CERTIFICATE

EXCUSE FROM SERVICE UNDER RULE OF 42, 2020-05-01

OTHER \_\_\_\_\_ by [REDACTED]  
[Signature]

Copy of this Memorandum has been served on the respondent and the Immigration Judge.

APPELLED BY: [REDACTED] by [REDACTED]  
Dated: May 31, 2018  
DETROIT L. ROBERT  
Immigration Judge

## Preparing client for the hearing

Ask your client his/her criminal history but do not rely on your client's memory.

If your client knows where he or she was arrested, check the individual court dockets of where your client would have been arrested.

Request an Identity History summary from the Federal Bureau of Investigation (FBI). Note that you need fingerprints for this.

- Check the I-213 "Record of Deportable/Inadmissible Alien." Although you never want to admit to facts in the I-213 in court, the form may include general information about what happened to your client.

In order to assess if your client is a flight risk, he/she may be asked what his or her immigration relief avenues are. Prepare your client for his/her potential claims of relief.

If your client has "bad facts" make sure you address these in your evidence packet and review them with your client in case he or she were asked at the hearing.

Make sure to stress to your client that he/she must listen carefully to the Judge's questions and answer each question honestly. Explain to your client that if he/she does not understand the Judge, then he/she must state on the record, "I'm sorry I do not understand your question."

### STEP 3: BOND HEARING

- If your client has family members, employers, or others who are willing to attend a bond hearing, their presence can be persuasive.
- Also, if needed, you may have to include a witness list and have some of your client's family, friends, or community leaders testify.
- Remember: Bond hearings are separate from merits cases. Therefore documents and testimony taken during a bond hearing are not automatically included in the individual hearing.

*If time permits during this presentation we will roll play a bond hearing.*

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### STEP 4: PAY BOND

#### WHO CAN PAY BOND?

- Any person with lawful status can post the bond. This person is called the "Obligor."
- The Obligor can present a bank's cashier check or a US Postal money order
- When the Obligor pays the bond, he or she must save all paperwork given by the ICE officer. This paper work explains how one were to obtain bond money once the case is concluded.

#### WHERE CAN THE OBLIGOR POST BOND?

- The Obligor can post bond at any ICE enforcement and Removal Office
- For Cleveland, the office is located at 925 Keynote Circle, Room 156 Brooklyn Heights, OH 44131

#### WHAT HAPPENS IF YOUR CLIENT VIOLATES HIS/HER OBLIGATIONS UNDER THE BOND?

- If this occurs then it is possible that the obligor will lose the bond.

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### QUESTIONS AND CONTACT INFORMATION

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