

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
KROME SERVICE PROCESSING CENTER
MIAMI, FLORIDA**

IN THE MATTER OF:

A#

RESPONDENT

IN BOND PROCEEDINGS

APPLICATION: Bond Redetermination Based upon Changed Circumstances

BOND ORDER

I. PROCEDURAL HISTORY

On June 25, 2013, Respondent, through counsel, filed a Motion for Redetermination of Custody Decision (the First Bond Motion), and the Cleveland Immigration Court entertained a custody hearing. The Cleveland Immigration Court granted the First Bond Motion and released Respondent from custody under bond of \$2,000. IJ First Bond Proceedings Decision (June 27, 2013). Thereafter, Respondent was taken into Immigration and Customs Enforcement (ICE) custody on November 5, 2018, after a subsequent arrest in 2017. Thus, Respondent's case was transferred to the Krome Immigration Court (the Court). On June 10, 2019, Respondent, through counsel, filed a second Motion for Bond Redetermination (the Second Bond Motion), and the Court entered an order denying Respondent's Second Bond Motion on June 11, 2019 because Respondent had an arrest subsequent to being released on bond. IJ Second Bond Proceedings Decision (June 11, 2019). On December 23, 2019, Respondent filed a third Motion for Bond Redetermination based upon Changed Circumstances (the Third Bond Motion), and the Court entertained a custody hearing on the same day. Respondent had the benefit of representation by counsel throughout the bond proceedings.

II. STATEMENT OF LAW

"After an initial bond redetermination, an alien's request for a subsequent bond redetermination shall be made in writing and shall be considered only upon a showing that the alien's circumstances have changed materially since the prior bond redetermination." 8 C.F.R. §§ 1003.19(e), 236.1(d), 1236.1(d). After consideration upon the merits, "[i]f there are no changed circumstances shown, the immigration judge can decline to change the prior bond decision." Matter of Uluocha, 20 I&N Dec. 133, 134 (BIA 1989) (citing Matter of Chew, 18 I&N Dec. 262, 263 n.2 (BIA 1982)). Custody and bond determinations are "[b]ased upon any information that is available to the Immigration Judge or that is presented by the alien or [DHS]." 8 C.F.R. § 1003.19(d). It is Respondent's burden to establish eligibility for bond by proving

“[r]elease would not pose a danger to property or persons, and that he is likely to appear for any future proceeding.” 8 C.F.R. § 1236.1(c)(8).

III. DISCUSSION

Respondent is a thirty-eight-year-old native and citizen of the Kenya. In 2017, Respondent was arrested on a domestic violence charge in Hillsborough County, Florida; thus, the Court initially denied Respondent’s Second Bond Motion because he had an arrest with pending charges. After the denial of bond, Respondent, through counsel, filed the Third Bond Motion, alleging that a material change in circumstances had occurred. See 8 C.F.R. §§ 1003.19(e), 236.1(d), 1236.1(d). Respondent presented evidence that the State of Florida entered a *nolle prosequi* in his criminal case, dropping charges from the 2017 arrest, which would constitute a change in circumstances. See *id.* Moreover, the Court notes that Respondent and his wife, the victim in his closed criminal case, are divorced, which indicates that such an incident is unlikely to reoccur. In addition, the mother of Respondent’s child, who is severely autistic, testified before the Court in September of 2019, and she attested to the fact that Respondent is not a violent person.

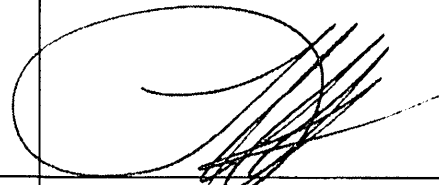
The Court finds that Respondent had demonstrated a material change in circumstances. The documents that Respondent submitted to the Court — including the Florida Comprehensive Case Information System printout stating the criminal case is closed and the Notice of *Nolle Prosequi* from the State of Florida stating that the charges were dropped — are sufficient to support a finding of changed circumstances because these documents were unavailable at the time of the initial bond redetermination. Having considered the evidence available to the Court, the Court finds that Respondent established his eligibility for a bond because he proved that he poses no danger to persons or property. 8 C.F.R. § 1236.1(c)(8). Although the Court recognizes that the Department does not have the burden of proof, the Court notes that the Department did not submit any evidence which would contradict the Court’s conclusion. Accordingly, after considering Respondent’s Third Bond Motion, the Court finds Respondent has met his burden to demonstrate a material change in circumstances, and in order to ensure Respondent’s appearance at future hearings, the Court will set a bond in the amount of \$10,000.

ORDERS OF THE IMMIGRATION JUDGE

IT IS HEREBY ORDERED that the Respondent’s Motion for Bond Redetermination based upon Changed Circumstances is **GRANTED**.

IT IS FURTHER ORDERED that Respondent be released from custody under **BOND** of **\$10,000**.

DATED this Dec. 13, 2019



LOURDES RODRIGUEZ DE JONGH
IMMIGRATION JUDGE