



U.S. Department of Justice
 Executive Office for Immigration Review
 Office of the Immigration Judge

7880 Biscayne Boulevard, 8th Floor
 Miami, Florida 33138

Date: April 23, 1985

Jeffrey N. Mausner
 Trial Attorney
 Office of Special Investigations
 Criminal Division
 1377 K. St., N.W., Suite 195
 Washington, D.C. 20005
 Dear

RECEIVED
APR 26 PM
OFFICE OF
SPECIAL INVESTIGATIONS

Subject: Name KONRAD KALEJS, A Number 11 655 361

- Attached is a copy of the Immigration Judge's written decision. This decision is final unless an appeal is taken to the Board of Immigration Appeals. If you wish to appeal, complete two copies of Form I-290A, Notice of Appeal (enclosed). The original Form I-290A must be submitted to the Office of the Immigration Judge by _____. This original must contain a certification stating that a copy of the appeal has been submitted to the opposing party. The fee to file an appeal is \$50.
- For your information, attached is a copy of the Immigration Judge's oral decision made on _____.
- Attached is a copy of the transcript of the testimony of record. If you wish to submit a brief to this office in support of your appeal, your original brief must be submitted by _____. This original brief must contain a certification stating that a copy has been submitted to the Government's attorney/alien/alien's representative.
- In accordance with your request, the time period of filing _____ for _____ in the above referenced case has been extended by an Immigration Judge to _____.
- Attached is the Immigration Judge's Bond Memorandum dated April 23, 1985.

 If you wish to submit a written brief in this matter _____, it should be

 filed directly with the BOARD OF IMMIGRATION APPEALS BY MAY 6, 1985.

 The address is 5203 Leesburg Pike, Suite 1609, Falls Church, Virginia 22041.

Office of the Immigration Judge
Iris N. Gonzalez
 By: Iris N. Gonzalez
 Clerk

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
KROME NORTH SPC
MIAMI, FLORIDA

IN THE MATTER OF

KONRADS KALEJS
Respondent

IN DEPORTATION PROCEEDINGS

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DATE: April 23, 1985

FILE: #A11 655 361

BOND MEMORANDUM

The Respondent is a 72 year old male, a native of Latvia and a citizen of Australia. He entered the United States for Permanent Residence on February 6, 1959. On October 29, 1984 an Order to Show Cause was issued charging Respondent with Deportability under Sections 241(a)(1) 241(a)(2), and 241(a)(19) of the Immigration and Nationality Act, as amended [8 U.S.C. 1251(a)(1),(2), and (19)].

On April 19, 1985 the Respondent was apprehended in Miami Beach, Florida by officers of the U.S. Marshals Service upon a warrant of arrest issued in connection with this deportation proceeding. He is presently in the custody of the United States Immigration and Naturalization Service at Krome North Service Processing Center, Miami, Florida. Pursuant to 8 C.F.R. 242.2 (a) the District Director has determined that Respondent be held without bond. Respondent has applied to the Immigration Judge for a reasonable bond; pursuant to 8 C.F.R. 242.2(b). Based upon the facts, law and reasons hereafter outlined, I determine that the Respondent's custody status should remain unchanged.

In support of its assertion that the Respondent should be detained without bond because of his massive effort to avoid a deportation hearing, the government has offered numerous documents and several witnesses. The affidavit of Jeffery N. Mausner, Trial Attorney, Office of Special Investigations,

U.S. Department of Justice, is entered as Exhibit #1 herein. The affidavit sets forth in great detail the government's efforts to commence deportation proceedings against Respondent and later to effect service. It clearly indicates that Respondent was aware of the government's case as long ago as February 26, 1984. It outlines what can only be viewed as a pattern of delay, then avoidance and evasion on the Respondent's part. Based upon Mr. Mausner's documented assertion that Respondent had gone into hiding, an arrest warrant was issued on February 22, 1985.

Pursuant to the arrest warrant, Inspector John L. Pascucci of the United States Marshal Service, was assigned to locate Respondent. Mr. Pascucci testified extensively in the Bond Hearing as to his investigation and the events leading up to his apprehension of the Respondent. He revealed, among others, the following factors which bear on respondent's bondability:

- a) The respondent's high degree of mobility since September 1984, including temporary stays in Toronto, Canada and Australia;
- b) Respondent's return to the United States and avoidance of his legal residences in Winnetka, Illinois and St. Petersburg, Florida;
- c) The assistance that Respondent has received from his lady friend, Mrs. Austra Kalnins, in avoiding service of process and arrest. Mrs. Kalnins even lied to investigators in saying that she had not seen the Respondent in almost one year- when the investigation had shown otherwise;
- d) The existence of other possible confederates who assisted Respondent in hiding and who would not cooperate with the government;
- e) A pattern of non-cooperation with the investigation on the part of certain persons in the Latvian community;
- f) Respondent's registering at a motel in Treasure Island, Florida under the name C. Michaelson. C. Michaelson is the deceased second husband of Respondent's late sister. Other C. Michaelson documents were located hidden in Respondent's car, leading investigators to believe that Respondent was attempting to assume a new identity;
- g) Respondent's ownership of substantial and highly liquid assets, his withdrawal of substantial funds from his accounts, and his possession of \$10,000 cash upon arrest;
- h) Respondent's purchase of an open airline ticket from Toronto to Australia, and his possession of a currently valid Australia passport;

- i) Respondent's lack of family ties in the U.S. except for one nephew to whom he is not particularly close;
- j) Respondent's joint ownership with Austra Kalnins of substantial real property holdings, including the Winnetka and St. Petersburg homes, and two Ft. Lauderdale condominiums.
- k) Confidential information from an informant that Austra Kalnins had made statements to a Latvian War Veterans Association that she would get Respondent out on bond and "go to the islands";
- l) The expenditure of approximately 1,500 man-hours on the investigation, costing taxpayers some \$42,000.

On March 26, 1985 the original Order to Show Cause was filed with the Immigration Court. A Master Calendar hearing in this case was set for April 10, 1985 before the undersigned, and notices of hearing were sent by certified mail to Respondent at both the Winnetka and St. Petersburg addresses. Respondent's present counsel was notified by telephone and letter (see Exhibit #2) of the hearing, although at the time he was not the attorney of record in this case, Counsel's G-28 was not filed until April 22, 1985 after Respondent was arrested. Respondent failed to appear without explanation on April 10, 1985 and the case was administratively closed. (see Exhibit #3).

In support of his request for a reasonable bond the Respondent did not testify. His attorney, however, proffered the following facts and assurances:

- a) That by retaining counsel, Respondent has now made a substantial financial commitment to defend his case;
- b) That counsel feels that it will take him a long time to investigate and prepare his case, because the allegations of deportability span a period of 44 years.
- c) The advanced age of Respondent, almost 72 years old.
- d) The slightly below average health of Respondent.
- e) The Respondent's roots in this country are 25 years deep.
- f) The Respondent was gainfully employed until his retirement in 1983, has paid his taxes, and has accumulated a "modest" nest-egg.
- g) The respondent is not a danger to the community.
- h) No allegations of subversive or narcotics activities, nor any criminal record or charges pending.

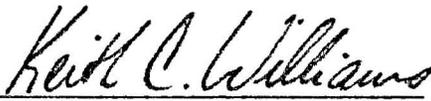
- i) The Respondent's return to the United States from Australia and Canada evidences his desire to face the charges against him.
- j) No National Security considerations are present.
- k) The government's bond conditions are punitive and are the result of Respondent's having "bruised the over-inflated egos of the attorneys at the O.S.I." .
- l) The Respondent cannot effectively assist in own defense while detained, because his attorney is from New York and it would be inconvenient and difficult.

An alien generally should not be detained or required to post bond pending a determination of deportability unless there is a finding that he/she is a threat to national security or is a poor bail risk. Matter of Patel, 15 I&N. Dec. 666 (BIA 1976). In determining the necessity for and the amount of bond, such factors as a stable employment history, state bond amount, the length of residence in the community, the existence of family ties, a record of nonappearance at a court proceedings, manner of entry, and previous criminal or immigration law violations may properly be considered. See Matter of Sugay, 17 I&N Dec. 637 (BIA 1981); Matter of Shaw, 17 I&N Dec.. 177 (BIA 1979); Matter of Spiliopoulos, 16 I&N Dec. 561 (BIA 1978); Matter of Patel, supra; Matter of San Martin 15 I&N Dec. 167 (B.I.A. 1974; Matter of Moise, 12 I&N Dec. 102 (BIA 1967); Matter of S-Y-L, 9 I&N Dec. 575 (BIA 1962).

In light of the foregoing and after having considered all of the evidence and arguments discussed herein it is concluded that the Respondent is an extremely poor bond risk and is virtually certain to abscond. The Respondent has avoided service of process and has sought not to face his deportation hearing until it was convenient for him to do so. Although he returned to the United States, he never came forward. He had to be pursued and arrested. He has the means and inclination to abscond. There are people who would help him in doing so. Respondent's gainful and essentially law-abiding U.S. residence over 25 years is overshadowed by the events of the last year. If found deportable on all charges, no statutory relief is available to him.

Although the expression is trite, Respondent's actions speak louder than his words. Mere assurance that he will not abscond do not overcome his actions and the actions and statements of those who assisted him. The government has persuasively shown that its custody determination is reasonable based upon the facts, and is not punitive. Respondent has not shown that release upon bond is appropriate.

ORDER: IT IS ORDERED that the request for a change in the Respondent's custody status be DENIED.


KEITH C. WILLIAMS
Immigration Judge