

Falls Church, Virginia 22041

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File: D2011-181

Date:

NOV 22 2011

In re: JAGJOT SINGH KHANDPUR, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF EOIR: Jennifer J. Barnes, Disciplinary Counsel

ON BEHALF OF DHS: Diane H. Kier  
Associate Legal Advisor

The respondent will be suspended from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS"), for sixty days.

On July 18, 2011, the respondent was suspended indefinitely by the Court of Appeals of Maryland, effective thirty days from the filing of the opinion. Consequently, on September 28, 2011, the Disciplinary Counsel for the Executive Office for Immigration Review petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. The DHS then asked that the respondent be similarly suspended from practice before that agency. Therefore, on October 18, 2011, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The respondent filed a timely answer to the allegations contained in the Notice of Intent to Discipline on October 20, 2011. 8 C.F.R. § 1003.105(c)(1). The respondent acknowledges that he is subject to discipline by the Board. He argues only that his suspension should run concurrently with the suspension imposed in Maryland; in other words, his suspension by the Board should be deemed to have commenced on August 17, 2011, the effective date of his suspension in Maryland.

As there is no material issue of fact in dispute, and as the EOIR Disciplinary Counsel's proposed sanction of sixty days is appropriate, in light of the respondent's suspension in Maryland, and given that he may seek re-admission sixty days after the effective date of his suspension, Notice of Intent to Discipline at p.3, the Board will honor that proposal. Further, after consideration of the respondent's answer, as well as the government's filing, the Board will deem the suspension to have commenced on October 18, 2011, the date of the Board's immediate suspension order.

In attorney discipline cases where respondents are placed under an immediate suspension order by the Board, pursuant to 8 C.F.R. § 1003.103(a)(2), we typically deem the respondent's final discipline to have commenced as of the date of such immediate suspension order. However, some respondents, such as attorney Khandpur, request that the final Board discipline instead run concurrently with the discipline imposed by their state bars.

The EOIR Disciplinary Counsel argues that requests for the Board's final discipline to be imposed nunc pro tunc to state discipline should only be granted where a respondent complies with 8 C.F.R. § 1003.103(c), or 8 C.F.R. § 292.3(c)(4) (in cases where the respondent only appears before

the DHS)(EOIR Disciplinary Counsel's "Motion For Summary Adjudication", at 4). These regulations provide that a practitioner has a duty to notify the EOIR Disciplinary Counsel, or the DHS Disciplinary Counsel, within 30 days, when he has been convicted of a serious crime, or has been suspended or disbarred.<sup>1</sup>

In this case, the respondent did not notify the EOIR Disciplinary Counsel of his Maryland suspension, as required by 8 C.F.R. § 1003.103(c). The regulation does not specifically say that a failure to notify the government requires that the Board's final suspension must be deemed to have started on the date of the Board's immediate suspension order. However, the Board finds that the respondent's failure to meet the notice requirement under 8 C.F.R. § 1003.103(c) raises a non-conclusive presumption that the Board's final discipline should run from the date of the Board's immediate suspension order, rather than the (earlier) effective date of the Maryland suspension. After considering the circumstances raised in the respondent's situation, we find that the presumption is not rebutted in this case.

The respondent indicates in his answer that he has not practiced before EOIR since being suspended in Maryland. The respondent makes no claim, however, that he notified the EOIR Disciplinary Counsel concerning his suspension under 8 C.F.R. § 1003.103(c). Neither does he claim that he specifically notified the DHS or the Immigration Courts concerning his suspension, although he says that he "withdrew his appearance from all cases pending before the Board of Immigration Appeals, Immigration Courts and the Department of Homeland Security." Moreover, the disciplinary violation that gave rise to the Maryland discipline related to an immigration client. After consideration of all relevant factors, therefore, the Board will deem the suspension to have commenced on October 18, 2011, the date of the Board's immediate suspension order.

ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for sixty days, effective October 18, 2011.

FURTHER ORDER: The respondent is instructed to maintain compliance with the directives set forth in our prior order. The respondent is also instructed to notify the Board of any further disciplinary action against him.

FURTHER ORDER: The respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS under 8 C.F.R. § 1003.107.

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. 8 C.F.R. § 1003.105(d)(2)(2010); *Matter of Kronegold*, 25 I&N Dec. 157, 163 (BIA 2010).




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FOR THE BOARD

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<sup>1</sup>The EOIR Disciplinary Counsel also argues that the Board's final suspension should run concurrently with a state's suspension only if the attorney ceases practice before EOIR on or before the effective date of the state suspension or disbarment (EOIR Disciplinary Counsel's "Motion For Summary Adjudication", at 4).