

NOT FOR PUBLICATION

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

MATTER OF:

Thomas O. CAMPBELL, D2023-0245

Respondent

FILED

DEC 07 2023

ON BEHALF OF EOIR: Paul A. Rodrigues, Disciplinary Counsel

ON BEHALF OF DHS: Toinette M. Mitchell, Disciplinary Counsel

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
Petition for Immediate Suspension Before the Board of Immigration Appeals

Before: Malphrus, Deputy Chief Appellate Immigration Judge; Clark, Appellate Immigration Judge; Creppy, Appellate Immigration Judge¹

Opinion by Malphrus, Deputy Chief Appellate Immigration Judge

MALPHRUS, Deputy Chief Appellate Immigration Judge

On October 30, 2023, the Disciplinary Counsel for the Executive Office for Immigration Review and the Disciplinary Counsel for the Department of Homeland Security (“DHS”) jointly petitioned for the respondent’s immediate suspension from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS, based on the respondent’s conviction for a serious crime. The respondent has opposed the Disciplinary Counsels’ joint petition. The joint petition will be granted.

In their joint petition, the Disciplinary Counsels contend that the respondent should immediately be suspended pursuant to 8 C.F.R. §§ 292.3(c) and 1003.103(a)(1), based on his conviction for a “serious crime” as defined in 8 C.F.R. § 1003.102(h). In support of their petition, they submitted a certified copy of the August 31, 2023, order from the United States District Court for the District of Nebraska, with case number 8:23-CR-142, adopting the magistrate judge’s findings and recommendation on the respondent’s guilty plea. The district court, inter alia, found the respondent guilty, accepted his plea, and found that the plea of guilty is knowing, intelligent, and voluntary, and that a factual basis exists for the guilty plea. The Disciplinary Counsels also submitted the associated plea agreement that shows that the respondent pled guilty to the Information, which charged him with willfully making and subscribing a false Form 1040, in violation of 26 U.S.C. § 7206(1).

¹ Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. See 8 C.F.R. § 1003.1(a)(4)

The respondent has requested that we deny or set aside the Disciplinary Councils' petition for the following reasons: that immediately suspending him before initiation of formal disciplinary proceedings would cause harm to the community; that the Nebraska Bar is aware of his criminal case and has not initiated formal disciplinary proceedings against him; that his criminal case includes a cooperation agreement with the United States; that his criminal case did not involve violence, firearms, or harm to any person, nor did it involve drugs or alcohol; that he has no pending state bar complaints; that he is forming a partnership with another firm that will begin on January 1, 2024; that he had no time or warning to prepare for the Disciplinary Councils' joint petition filed on October 30, 2023; and that he has not been convicted, in that his sentencing is set for November 30, 2023.

The regulations state that the Board, upon receiving proof that a practitioner has been found guilty or pleaded guilty of a serious crime, "shall forthwith enter an order immediately suspending the practitioner from practice before the Board, the Immigration Courts, and/or the DHS . . ." 8 C.F.R. § 1003.103(a)(4). A "serious crime," in turn, includes any felony and any lesser crime,

a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, dishonesty, bribery, extortion, misappropriation, theft, or an attempt, or a conspiracy or solicitation of another, to commit a serious crime.

8 C.F.R. § 1003.102(h). A plea of guilty is deemed to be a conviction under the regulations. *Id.*

The respondent does not dispute the allegation that he pleaded guilty to willfully making and subscribing a false Form 1040, in violation of 26 U.S.C. § 7206(1), a felony.² Under the regulations, the respondent is deemed to be convicted of a serious crime based on his plea of guilty to this offense that has an element that involved "deceit." *Kawashima v. Holder*, 565 U.S. 478, 483-84 (2012) (finding that a violation under 26 U.S.C. § 7206(1) is an offense with elements that necessarily involved "deceit"). The regulations do not require that sentencing be imposed, or post-trial matters or appeals be resolved, before immediate suspension is imposed. 8 C.F.R. § 1003.103(a)(4).

² This statute provides that any person who . . .

Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter . . . shall be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 3 years, or both, together with the costs of prosecution.

26 U.S.C. § 7206(1) (2023)

The fact that the respondent has not yet been sentenced, that his crime did not involve violence, drugs or alcohol, that his case involved a plea agreement, and that the Nebraska Bar has not initiated disciplinary proceedings against him, do not obviate our regulatory mandate to order the respondent's immediate suspension as a result of his plea of guilty to a serious crime as defined in 8 C.F.R. § 1003.102(h). 8 C.F.R. § 1003.103(a)(4). Nor do these factors, when considered along with the respondent's bare and unsupported claims regarding harm to the community, harm to his "many, many clients," and his plan to form a partnership in January 2024, persuasively establish "good cause" that would counteract the regulatory requirement that we enter an order immediately suspending the respondent, or that any such order be set aside "in the interest of justice." 8 C.F.R. § 1003.103(a)(4). Accordingly, the Disciplinary Counsels' petition for immediate suspension is granted. *Id.* The following orders will be entered.

ORDER: The petition is granted, and the respondent is hereby suspended from the practice of law before the Board, the Immigration Courts, and DHS pending final disposition of his disciplinary proceedings. 8 C.F.R. § 1003.103(a).

FURTHER ORDER: The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or DHS that the respondent has been suspended from practicing before these bodies.

FURTHER ORDER: The respondent shall maintain records to evidence compliance with this order.

FURTHER ORDER: The contents of this notice shall be made available to the public, including at Immigration Courts and appropriate offices of DHS.