

NOT FOR PUBLICATION

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

MATTER OF:

Matthew T. LUENING, D2024-0019

Respondent

FILED

MAR 11 2025

ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: Amy S. Paulick, Disciplinary Counsel

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

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
On Motion from a Decision of the Board of Immigration Appeals

Before: Clark, Appellate Immigration Judge; Creppy, Appellate Immigration Judge; Liebowitz,
Appellate Immigration Judge

Opinion by Creppy, Appellate Immigration Judge

CREPPY, Appellate Immigration Judge

The respondent was suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security (“DHS”) for 60 days, effective February 22, 2024. On June 13, 2024, we denied his first motion seeking reinstatement to practice because he had not met his burden of establishing that he had complied with the terms of his suspension. We also extended his suspension for 60 days given his noncompliance.

On October 29, 2024, we denied the respondent’s second motion seeking reinstatement to practice because he had not met his burden of establishing that he had complied with the terms of his suspension. We also extended his suspension for 60 days given his noncompliance.

On January 16, 2025, the respondent filed a third motion seeking reinstatement. The Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and the Disciplinary Counsel for DHS oppose the respondent’s motion for reinstatement.¹ After considering the arguments and evidence from both parties, we will deny the respondent’s third motion for reinstatement.

On December 15, 2023, the Supreme Court of Wisconsin issued an order suspending the respondent from the practice of law in Wisconsin for 60 days, effective January 26, 2024. The

¹ All references in this decision to Disciplinary Counsels or the Government are references to the Disciplinary Counsels for EOIR and DHS.

suspension was based, in part, on the respondent's failure to adhere to Wisconsin's rules of professional conduct, despite two prior disciplinary actions.²

On February 5, 2024, the Disciplinary Councils jointly petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. We granted the Joint Petition for Immediate Suspension on February 22, 2024. Further, because the respondent did not file a timely answer to the Notice of Intent to Discipline ("NID") and because the proposed sanction of a 60-day suspension was appropriate considering his suspension in Wisconsin, our April 18, 2024, final order of discipline suspended the respondent from practice before the Board, the Immigration Courts, and DHS for 60 days, effective February 22, 2024, the date of our immediate suspension order.

On May 14, 2024, the respondent filed a motion seeking reinstatement to practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. He claimed he has been reinstated to the practice of law in Wisconsin and that he met the definition of attorney contained in 8 C.F.R. § 1001.1(f). *See* 8 C.F.R. § 1003.107(a)(1) (discussing requirements for reinstatement). In support of his motion, he presented evidence that he has been reinstated to the practice of law in Wisconsin (Respondent's Mot.) (attachment). *See* 8 C.F.R. § 1003.107(a)(1).

The Disciplinary Councils did not dispute that the respondent met the definition of attorney set forth in 8 C.F.R. § 1001.1(f). The Disciplinary Councils, however, opposed the respondent's motion for reinstatement on the ground that he had not complied with his period of suspension. *See* 8 C.F.R. § 1003.107(a)(3) (indicating that, if a practitioner failed to comply with the terms of his or her suspension, the Board shall deny the motion for reinstatement).

In particular, the Disciplinary Councils maintained that the respondent had practiced before DHS, and specifically, U.S. Citizenship and Immigration Services ("USCIS"), by preparing and filing documents related to seven clients with applications before USCIS between April and May 2024 (Joint Opp. at 2-3, Exhs. 1-7). The respondent did not respond to the Disciplinary Councils' opposition or otherwise reconcile the evidence of his practicing law before DHS during the period of his suspension.

We found the respondent did not establish that he did not violate the terms of his suspension before the Board of Immigration Appeals, the Immigration Courts, and DHS as the Disciplinary Councils alleged. We accordingly denied the respondent's motion for reinstatement on June 13, 2024, and ordered that he remain suspended for an additional 60 days, effective immediately. 8 C.F.R. § 1003.107(a)(3).

On August 21, 2024, after this additional 60 days of suspension had expired, the respondent filed a second motion for reinstatement. In his second motion, the respondent argued that he

² The Wisconsin Office of Lawyer Regulation also charged the respondent with violating several of EOIR's rules of professional conduct; however, the court dismissed those counts, finding they should have been plead under EOIR's rules.

continues to meet the definition of attorney contained in 8 C.F.R. § 1001.1(f), and that he is entitled to reinstatement to practice before the Board, the Immigration Courts, and DHS. The Disciplinary Councils, however, again opposed the respondent's motion for reinstatement.

The Disciplinary Councils did not dispute that the respondent met the definition of attorney set forth in 8 C.F.R. § 1001.1(f). The Disciplinary Councils, however, opposed the respondent's second motion for reinstatement on the ground that he had not complied with his period of suspension. *See* 8 C.F.R. § 1003.107(a)(3) (indicating that, if a practitioner failed to comply with the terms of his or her suspension, the Board shall deny the motion for reinstatement).

In particular, the Disciplinary Councils maintained that the respondent had practiced before USCIS during his suspension. The respondent did not respond to the Disciplinary Councils' opposition or otherwise reconcile the evidence of his practicing law before DHS during the period of his suspension. We found the respondent did not establish that he did not violate the terms of his suspension before the Board of Immigration Appeals, the Immigration Courts, and DHS as the Disciplinary Councils alleged. We accordingly denied the respondent's motion for reinstatement on October 29, 2024, and ordered that he remain suspended for an additional 60 days, effective immediately. 8 C.F.R. § 1003.107(a)(3).

On January 16, 2025, after this additional 60 days of suspension had expired, the respondent filed a third motion for reinstatement. In his third motion, the respondent argues that he continues to meet the definition of attorney contained in 8 C.F.R. § 1001.1(f), and that he is entitled to reinstatement to practice before the Board, the Immigration Courts, and DHS. The Disciplinary Councils, however, again oppose the respondent's motion for reinstatement.

In their opposition, the Disciplinary Councils admit that the respondent meets the definition of attorney contained in 8 C.F.R. § 1001.1(f) (Joint Opp. at 2, Feb. 4, 2025). The Disciplinary Councils nevertheless contend that, despite being suspended since February 22, 2024, and the Board extending that suspension twice, the respondent continued to engage in practice before USCIS. They provide one example of this supported by evidence (Joint Opp. at 2-3 and Attachment 1, Feb. 4, 2025).

The respondent has not responded to the Disciplinary Councils' opposition or otherwise reconciled this evidence of his continued practicing of law before DHS during the period of his suspension.

Given this additional evidence of noncompliance with his suspension, we will deny the respondent's motion for reinstatement. *See* 8 C.F.R. § 1003.107(a)(3) (stating that, if a practitioner failed to comply with the terms of the suspension, the Board "shall deny" reinstatement and indicate the circumstances under which the practitioner may apply for reinstatement). We further order that the respondent should remain suspended for an additional 60 days, effective as of the date of this order, before moving again for reinstatement to practice. *Id.*

ORDER: The respondent's motion for reinstatement is denied.

FURTHER ORDER: The respondent remains suspended from the practice of law before the Board of Immigration Appeals, the Immigration Courts, and DHS.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior orders. The respondent must notify the Board of any further disciplinary action against him.

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

FURTHER ORDER: The respondent may not petition this Board for reinstatement to practice before the Board, the Immigration Courts, and DHS under 8 C.F.R. § 1003.107 until 60 days after the date of this order.

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Board of Immigration Appeals

MATTER OF:

Matthew T. LUENING, D2024-0019

Respondent

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OCT 29 2024

ON BEHALF OF RESPONDENT: Pro se

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

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

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
On Motion from a Decision of the Board of Immigration Appeals

Before: Clark, Appellate Immigration Judge; Creppy, Appellate Immigration Judge; Liebowitz,
Appellate Immigration Judge

Opinion by Clark, Appellate Immigration Judge

CLARK, Appellate Immigration Judge

The respondent was suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security (“DHS”) for 60 days, effective February 22, 2024. On June 13, 2024, we denied his first motion seeking reinstatement to practice because he had not met his burden of establishing that he had complied with the terms of his suspension. We also extended his suspension for 60 days given his noncompliance.

On August 21, 2024, the respondent filed a second motion seeking reinstatement. The Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and the Disciplinary Counsel for DHS oppose the respondent’s motion for reinstatement.¹ After considering the arguments and evidence from both parties, we will deny the respondent’s second motion for reinstatement.

On December 15, 2023, the Supreme Court of Wisconsin issued an order suspending the respondent from the practice of law in Wisconsin for 60 days, effective January 26, 2024. The

¹ All references in this decision to Disciplinary Counsels or the Government are references to the Disciplinary Counsels for EOIR and DHS.

suspension was based, in part, on the respondent's failure to adhere to Wisconsin's rules of professional conduct, despite two prior disciplinary actions.²

On February 5, 2024, the Disciplinary Counsels jointly petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. We granted the Joint Petition for Immediate Suspension on February 22, 2024. Further, because the respondent did not file a timely answer to the Notice of Intent to Discipline ("NID") and because the proposed sanction of a 60-day suspension was appropriate considering his suspension in Wisconsin, our April 18, 2024, final order of discipline suspended the respondent from practice before the Board, the Immigration Courts, and DHS for 60 days, effective February 22, 2024, the date of our immediate suspension order.

On May 14, 2024, the respondent filed a motion seeking reinstatement to practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. He claimed he has been reinstated to the practice of law in Wisconsin and that he met the definition of attorney contained in 8 C.F.R. § 1001.1(f). *See* 8 C.F.R. § 1003.107(a)(1) (discussing requirements for reinstatement). In support of his motion, he presented evidence that he has been reinstated to the practice of law in Wisconsin (Respondent's Mot.) (attachment). *See* 8 C.F.R. § 1003.107(a)(1).

The Disciplinary Counsels did not dispute that the respondent met the definition of attorney set forth in 8 C.F.R. § 1001.1(f). The Disciplinary Counsels, however, opposed the respondent's motion for reinstatement on the ground that he had not complied with his period of suspension. *See* 8 C.F.R. § 1003.107(a)(3) (indicating that, if a practitioner failed to comply with the terms of his or her suspension, the Board shall deny the motion for reinstatement).

In particular, the Disciplinary Counsels maintained that the respondent had practiced before DHS, and specifically, U.S. Citizenship and Immigration Services ("USCIS"), by preparing and filing documents related to seven clients with applications before USCIS between April and May 2024 (Joint Opp. at 2-3, Exhs. 1-7). The respondent did not respond to the Disciplinary Counsels' opposition or otherwise reconcile the evidence of his practicing law before DHS during the period of his suspension.

We found the respondent did not establish that he did not violate the terms of his suspension before the Board of Immigration Appeals, the Immigration Courts, and DHS as the Disciplinary Counsels alleged. We accordingly denied the respondent's motion for reinstatement on June 13, 2024, and ordered that he remain suspended for an additional 60 days, effective immediately. 8 C.F.R. § 1003.107(a)(3).

On August 21, 2024, after this additional 60 days of suspension had expired, the respondent filed a second motion for reinstatement. In his second motion, the respondent argues that he

² The Wisconsin Office of Lawyer Regulation also charged the respondent with violating several of EOIR's rules of professional conduct; however, the court dismissed those counts, finding they should have been plead under EOIR's rules.

continues to meet the definition of attorney contained in 8 C.F.R. § 1001.1(f), and that he is entitled to reinstatement to practice before the Board, the Immigration Courts, and DHS. The Disciplinary Counsels, however, again oppose the respondent's motion for reinstatement.

In their opposition, the Disciplinary Counsels admit that the respondent meets the definition of attorney contained in 8 C.F.R. § 1001.1(f) (Joint Opp. at 2, Aug. 29, 2024). The Disciplinary Counsels nevertheless contend the respondent continued to practice law in violation of our June 13, 2024, order extending his suspension for 60 days, and they provide two examples of this supported by evidence (Joint Opp. at 2-3 and Attachments 1 and 2, Aug. 29, 2024). The Disciplinary Counsels further argue that the respondent now has violated two suspension orders and should be disbarred (Joint Opp. at 3, Aug. 29, 2024).

The respondent has not responded to the Disciplinary Counsels' opposition or otherwise reconciled this evidence of his continued practicing of law before DHS during the period of his extended suspension.

Given this additional evidence of noncompliance with our June 13, 2024, continuing order of discipline, we will deny the respondent's motion for reinstatement. *See* 8 C.F.R. § 1003.107(a)(3) (stating that, if a practitioner failed to comply with the terms of the suspension, the Board "shall deny" reinstatement and indicate the circumstances under which the practitioner may apply for reinstatement).

The Disciplinary Counsels claim that the respondent should be disbarred for his continued disregard for our suspension orders. In the absence of a Notice of Intent to discipline, we instead order that the respondent must wait 60 days from the date of this order to seek reinstatement to practice before the Board, the Immigration Courts or DHS.

ORDER: The respondent's motion for reinstatement is denied.

FURTHER ORDER: The respondent remains suspended from the practice of law before the Board of Immigration Appeals, the Immigration Courts, and DHS.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior orders. The respondent must notify the Board of any further disciplinary action against him.

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

FURTHER ORDER: The respondent may not petition this Board for reinstatement to practice before the Board, the Immigration Courts, and DHS under 8 C.F.R. § 1003.107 until 60 days after the date of this order.

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JUN 13 2024

ON BEHALF OF RESPONDENT: Pro se

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

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

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
On Motion from a Decision of the Board of Immigration Appeals

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

Opinion by Creppy, Appellate Immigration Judge

CREPPY, Appellate Immigration Judge

The respondent was suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security ("DHS") for 60 days, effective February 22, 2024, and remains suspended. On May 14, 2024, the respondent filed a motion seeking reinstatement to practice. The Disciplinary Counsel for the Executive Office for Immigration Review ("EOIR") and the Disciplinary Counsel for DHS oppose the respondent's motion for reinstatement. The respondent's motion will be denied.

On December 15, 2023, the Supreme Court of Wisconsin issued an order suspending the respondent from the practice of law in Wisconsin for 60 days, effective January 26, 2024. On February 5, 2024, the Disciplinary Counsel for EOIR and the Disciplinary Counsel for DHS jointly petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. We granted the Joint Petition for Immediate Suspension on February 22, 2024.

The respondent did not file a timely answer to the Notice of Intent to Discipline ("NID") and did not dispute the allegations in the Notice. Given the respondent's 60-day suspension from the practice of law in Wisconsin, our April 18, 2024, final order of discipline suspended the respondent from practice before the Board, the Immigration Courts, and DHS for 60 days, effective February 22, 2024, the date of our immediate suspension order.

The respondent claims that he has been reinstated to the practice of law in Wisconsin and that he meets the definition of attorney contained in 8 C.F.R. § 1001.1(f). See 8 C.F.R.

§ 1003.107(a)(1) (discussing requirements for reinstatement). In support of his motion, he has presented evidence that he has been reinstated to the practice of law in Wisconsin (Respondent's Mot.) (attachment). *See* 8 C.F.R. § 1003.107(a)(1).

The Disciplinary Councils for EOIR and DHS do not dispute that the respondent meets the definition of attorney set forth in 8 C.F.R. § 1001.1(f). The Disciplinary Councils, however, oppose the respondent's motion for reinstatement on the ground that he has not complied with his period of suspension. In particular, the Disciplinary Councils maintain that the respondent has practiced before the U.S. Citizenship and Immigration Services ("USCIS") by preparing and filing documents related to seven clients with applications before USCIS between April and May 2024 (Joint Opp. at 2-3, Exhs. 1-7). In light of this evidence, the Disciplinary Councils ask the Board to deny the respondent's motion for reinstatement.

The respondent has not responded to the Disciplinary Councils' opposition or otherwise reconciled this evidence of his practicing law before DHS during the period of his suspension.

Based on the foregoing, we will deny the respondent's motion for reinstatement. *See* 8 C.F.R. § 1003.107(a)(3) (stating that, if a practitioner failed to comply with the terms of the suspension, the Board "shall deny" reinstatement and indicate the circumstances under which the practitioner may apply for reinstatement). We further order that the respondent should remain suspended for an additional 60 days, effective as of the date of this order, before moving again for reinstatement to practice. *Id.*

ORDER: The respondent's motion for reinstatement is denied.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and DHS for 60 days, effective immediately upon issuance of this order.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior orders in his proceedings. The respondent must notify the Board of any further disciplinary action against him.

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

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