

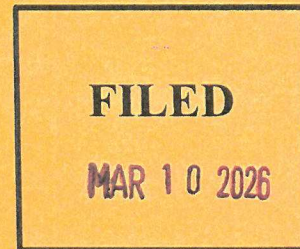
NOT FOR PUBLICATION

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

MATTER OF:

Petro KOSTIV, D2025-0242

Respondent



ON BEHALF OF RESPONDENT: Michael Quiroga, Esquire

ON BEHALF OF EOIR: Catherine M. O'Connell, Disciplinary Counsel

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

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
Notice of Intent to Discipline Before the Board of Immigration Appeals

Before: Malphrus, Chief Appellate Immigration Judge; Creppy, Appellate Immigration Judge;
Mullane, Appellate Immigration Judge

Opinion by Mullane, Appellate Immigration Judge

MULLANE, Appellate Immigration Judge

The respondent will be suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security ("DHS") for 60 days, effective November 26, 2025. The respondent's unopposed motion for reinstatement will be granted, effective immediately upon issuance of this order.

On July 30, 2025, the Supreme Court of California suspended the respondent from the practice of law in California for 1 year with the execution of the period of suspension stayed and the respondent placed on probation subject to several conditions including being suspended for the first 60 days of probation. On November 14, 2025, the Disciplinary Counsel for the Executive Office for Immigration Review and the Disciplinary Counsel for the Department of Homeland Security ("DHS") filed a Joint Notice of Intent to Discipline ("NID"), as well as a Joint Petition for Immediate Suspension, based upon the respondent's suspension in California. We granted the Joint Petition for Immediate Suspension on November 26, 2025.

On December 4, 2025, the respondent filed a timely answer to the NID, whereby he admitted the factual allegations in paragraphs 1, 2 and 4, and partially admitted the factual allegation in paragraph 3 (Respondent's Ans. at 1). The respondent set forth five of what he claimed as "affirmative defenses": (1) that the NID did not state facts sufficient to constitute any disciplinary violation against him; (2) that he has completed the 60-day suspension component of the California Supreme Court order, from August 29 to October 28, 2025, and is currently in good standing; (3) that on September 17, 2025, he communicated to Disciplinary Counsels his acquiescence to

reciprocal discipline by the Board “provided that such discipline run concurrently with his California suspension” and be “deemed and ordered completed”; and (4) that the Board’s November 26, 2025, order of suspension effectively imposed a greater discipline on him “as that contemplated under principles of reciprocal discipline” (Respondent’s Ans. at 1-2). For his fifth affirmative defense, the respondent indicated that he is moving to set aside the Board’s November 26, 2025, order, and is requesting that he be reinstated immediately to practice before the Board, the Immigration Courts and DHS (Respondent’s Ans. at 2).

On December 15, 2025, Disciplinary Counsels for EOIR and DHS filed an opposition to the respondent’s motion to set aside the order for immediate suspension and petition for reinstatement. Disciplinary Counsels essentially argued, inter alia, that the regulations support their filing, and the Board’s grant, of their Joint Petition for Immediate Suspension based upon the respondent’s suspension from the practice of law in California (Gov’t Opp’n at 1-2). Disciplinary Counsels noted that the respondent cites to no law in support of his argument for concurrent discipline and contend that the respondent’s failure to timely report his suspension contributed to the delay in their filing of reciprocal disciplinary charge (Gov’t Opp’n at 2-3).

On December 18, 2025, the respondent filed a response to Disciplinary Counsels’ opposition. The respondent, at the outset, clarified that he was not challenging the Board’s authority to enter an order of immediate suspension, but was advocating for his “actual 60-day suspension” as having run concurrently with the effective date of his California suspension, and be deemed as served and completed (Respondent’s Reply at 1). The respondent argued that not doing so would “double the discipline” imposed by the California Supreme Court and would be an “obvious injustice” (Respondent’s Reply at 1-2). The respondent also noted that he submitted proof of his current “good standing status in California” (Respondent’s Reply at 2). Finally, the respondent takes issue with Disciplinary Counsels’ “delay argument” as a “red-herring,” underscoring that he notified Disciplinary Counsels of his suspension on September 17, 2025 (Respondent’s Reply at 2). The respondent moves to have his order of immediate suspension rescinded and his motion for reinstatement granted, effective immediately (Respondent’s Reply at 3).

To the extent that the respondent is asking us to set aside the immediate suspension order, the respondent has not established that good cause exists for setting aside the order. 8 C.F.R. § 1003.103(a)(4). The respondent does not dispute that he was suspended from the practice of law by the Supreme Court of California. This suspension provides a proper basis for an immediate suspension order and, as provided below, a final order of discipline. 8 C.F.R. § 1003.103(a)(4) and (b)(2). That the respondent has now been reinstated to practice in California is relevant to the timing of our final sanction, not whether a sanction should be imposed. Accordingly, we deny the respondent’s motion to set aside our immediate suspension order.

The respondent does not dispute the allegation in the NID that the Supreme Court of California issued a final order suspending him from the practice of law in California, for 60 active days (Respondent’s Ans. at 1-2). While the respondent contends that the NID erred in alleging that he was found to have violated the “California Rules of Court,” he ultimately does not dispute that he was found to have engaged in professional misconduct, admitting, among other things, that he was found culpable of violating California Rules of Professional Conduct in failing to perform legal services with competence, and that he was found to have engaged in multiple acts of misconduct

(Respondent's Ans. at 1).¹ The respondent does not specifically request a hearing, nor has he made a prima facie showing that there is a material issue of fact in dispute regarding the basis for the disciplinary proceedings such that would necessitate a hearing in this case. See 8 C.F.R. §1003.106(a). The respondent's admission that he has been suspended in California is sufficient to establish that summary disciplinary proceedings is appropriate. See 8 C.F.R. § 1003.103(b)(2); see also 8 C.F.R. § 1003.102(e).

The certified copy of the July 30, 2025, decision by the Supreme Court of California ordering the respondent suspended from practice of law for the first 60 days of his probation creates a "rebuttable presumption of the professional misconduct" and that disciplinary sanctions should follow. See 8 C.F.R. § 1003.103(b)(2); see also *Matter of Kronegold*, 25 I&N Dec. 157, 160 (BIA 2010); *Matter of Truong*, 24 I&N Dec. 52, 54 (BIA 2006); *Matter of Ramos*, 23 I&N Dec. 843, 845 (BIA 2005). The respondent does not claim, nor has he demonstrated, that any of the circumstances enumerated in the regulations that would rebut this presumption applied in his case. See 8 C.F.R. § 1003.103(b)(2)(i)-(iii). Disciplinary Counsels have sustained the charge against the respondent and have established that he is subject to reciprocal discipline due to his suspension in California.

The respondent's primary complaint appears to be that Disciplinary Counsels' proposed sanction of suspension for a 60-day period, effective as of the Board's November 26, 2025, immediate suspension order, is unnecessary and subjects him to greater discipline than contemplated under the principles of reciprocal discipline (Respondent's Ans. at 2). In his subsequent filing, the respondent clarifies that he is not challenging the propriety of imposing suspension as a sanction but opines that any period of suspension imposed by the Board should run concurrent with his California suspension—from August 29 to October 28, 2025²—and be deemed as served and completed to date (Respondent's Resp. at 1).

Disciplinary Counsels' proposed sanction of a 60-day suspension from the practice of law before the Board, the Immigration Courts and DHS, is appropriate given the respondent's 60-day suspension from the practice of law in California. As for the respondent's demand for concurrent suspension, the regulations do not prescribe that, in the context of reciprocal discipline, sanctions necessarily be "identical," or that Board's imposition of periods of discipline run concurrent with the original disciplinary order. Other disciplinary authorities recognize that the retroactive imposition of reciprocal discipline is done only in limited situations, none of which has been shown

¹ The respondent submitted the opinion of the State Bar Court of California Review Department which reveals that the respondent, an immigration law practitioner, was found to have failed to perform competently for two of his clients, and that he engaged in misrepresentation before the Board that was grossly negligent but not intentional. *Matter of Kostiv*, No. SBC-22-0-31036, at 2, 12, 13, 15, 19, 24-25, 32-33 (Cal. Bar Ct. Dec. 13, 2024).

² The respondent has indicated that the 60-day actual suspension ordered by the Supreme Court of California ran from August 29 to October 28, 2025 (Respondent's Ans. at 2). This is consistent with California Rules of Court, Rule 9.18, which provides that "[u]nless otherwise ordered, all orders of the Supreme Court imposing discipline . . . become final 30 days after filing." The Supreme Court of California's disciplinary order was filed on July 30, 2025.

in this case.³ For instance, the respondent did not timely notify Disciplinary Councils for EOIR and DHS of the Supreme Court of California's July 30, 2025, suspension order as required by the regulations. *See* 8 C.F.R. §§ 292.3(c)(4), 1003.103(c) (requiring practitioners to notify Disciplinary Councils within 30 days of the issuance of the order of discipline, even if an appeal is pending). In light of this failure, we need not accede to the respondent's request that his suspension run concurrent with his California suspension, particularly where the heart of the underlying (late noticed) disciplinary order involved professional misconduct in his practice of law before the Board and the Immigration Court (Respondent's Ans., Exh. A).

We acknowledge that, although untimely, the respondent ultimately notified Disciplinary Councils of his suspension on September 17, 2025, and that Disciplinary Councils did not initiate disciplinary proceedings against the respondent until November 2025 (Respondent's Ans. at 2; Respondent's Reply at 2; Gov't Opp'n at 2). This is not a sufficient reason to order the respondent's suspension to run concurrent with his period of suspension in California or on a date earlier than our November 26, 2025, immediate suspension order, as he has requested. The respondent did not claim nor provide evidence indicating that he did not practice law before the Board, the Immigration Courts and DHS,⁴ during his period of suspension in California or during the time preceding our immediate suspension order, such that may have warranted ordering his period of suspension to be coterminous with his California suspension or retroactive to a date earlier than November 26, 2025. Accordingly, the respondent is ordered suspended from practice before the Board, the Immigration Courts and DHS, for a period of 60 days, effective as of the Board's November 26, 2025, immediate suspension order.

At this point in time, the respondent's 60-day period of suspension has expired, and we consider the respondent's motion for reinstatement. The respondent submitted evidence establishing that he has been readmitted to practice law in California (Respondent's Ans. at 2; Respondent's Decl. at 1, Exh. A). *See* 8 C.F.R. § 1003.107(a)(1) (discussing requirements for

³ *See, e.g., In re Klayman*, 991 F.3d 1289, 1296 (D.C. Cir. 2021) (recognizing that imposition of reciprocal discipline retroactively is done in limited situations, such as where the attorney promptly notifies the court of the discipline imposed or refrains from representing clients in the reciprocating court while suspended before the another court); *Matter of Allen*, 904 S.E.2d 354, 356 (Ga. 2024) ("This Court has held that 'when an attorney requests entry of a suspension or voluntary surrender order nunc pro tunc, it is the lawyer's responsibility to demonstrate that they voluntarily stopped practicing law, the date on which their law practice ended,'" (citation omitted)); *Att'y Grievance Comm. of Maryland v. Peters-Hamlin*, 136 A.3d 374, 377 (Md. 2016) (recognizing that "concurrence is not a matter of right but of our own discretion and practice, to be used when the circumstances warrant," and where "the attorney delays in notifying Bar Counsel of the out-of-state suspension, or declines to cease any practice of law in Maryland, or there is any other circumstances making a concurrent suspension inappropriate, that benefit will be unavailable" (citations omitted)).

⁴ While the respondent has averred that he did not appear before the Immigration Court and the Board during the period of his California suspension, we note that "practice" encompasses more than "appearing" before these administrative bodies (Respondent's Decl. at 1). *See* 8 C.F.R. § 1001.1(i) (defining the term "practice").

reinstatement). Disciplinary Counsels for EOIR and DHS have not disputed that the respondent meets the definition of attorney at 8 C.F.R. § 1001.1(f), nor have they expressly opposed the respondent's motion for reinstatement (*see* Gov't Opp'n at 1-3). We will therefore grant the respondent's motion for reinstatement. 8 C.F.R. § 1003.107(a)(3)

ORDER: The Board hereby suspends the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for 60 days, effective November 26, 2025.

FURTHER ORDER: The respondent is reinstated to practice before the Board of Immigration Appeals, the Immigration Courts, and DHS, as of the date of this order.

FURTHER ORDER: This reinstatement should be reflected in any public notices maintained and disseminated by the Executive Office for Immigration Review regarding attorney discipline.

FURTHER ORDER: If the respondent wishes to represent a party before DHS, the Immigration Courts, or the Board, he must file a Notice of Appearance (Form G-28, Form EOIR-26, or Form EOIR-27) even in cases in which he was counsel prior to his suspension.