

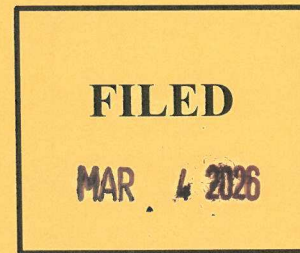
NOT FOR PUBLICATION

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

MATTER OF:

David Edward WALTERS, D2026-0001

Respondent



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 the practice of law before the Board of Immigration Appeals, the Immigration Court, and the Department of Homeland Security ("DHS") for 6 months.

On November 24, 2025, the United States Court of Appeals for the Ninth Circuit issued an order suspending the respondent from practice before the Ninth Circuit for 6 months, effective immediately. On January 8, 2026, the Disciplinary Counsel for the Executive Office for Immigration Review ("EOIR") 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.

Before we could rule on Disciplinary Counsels' Joint Petition for Immediate Suspension, the respondent filed an answer to the charges in the NID.¹ In the answer, the respondent admits the allegations in the NID and does not contest the disciplinary charge (Respondent's Resp. at 2-3). Instead, the respondent, sets forth "affirmative defenses" and argues that exceptions to reciprocal discipline apply in his case (Respondent's Resp. at 3). Specifically, the respondent contends that the identical reciprocal discipline of suspension is unwarranted because the Ninth Circuit misapplied the ABA Standards in imposing suspension as a sanction, ignored the absence of actual or potential injury, improperly penalized his "strategic discretion" and acted as non-neutral party to the disciplinary proceedings, and failed to consider significant mitigating factors that warrant

¹ Consequently, we need not rule on the Joint Petition for Immediate Suspension that sought to suspend the respondent until imposition of the final administrative decision in this matter. This order serves as the final administrative decision in the respondent's disciplinary proceedings.

lesser sanction (Respondent's Resp. at 3-6). The respondent urges the Board to impose as a sanction a warning or admonition, in lieu of reciprocal suspension, for what he characterizes as his purported negligent conduct (Respondent's Resp. at 4, 6). In the alternative, should the Board choose to suspend him, the respondent requests that the suspension run concurrent with the order from the Ninth Circuit, effective November 24, 2025 (Respondent's Resp. at 7).

In response, Disciplinary Counsels filed a motion for summary adjudication of these disciplinary proceedings. *See* 8 C.F.R. § 1003.103(b)(2). Disciplinary Counsels argue that summary proceedings are appropriate because there are no material issues of fact regarding the underlying basis for discipline, nor has the respondent made a prima facie showing that there are material issues of fact in dispute with regard to the exceptions to reciprocal discipline (Gov't Mot. at 1-2). Disciplinary Counsels request that the Board retain jurisdiction over this case and issue a final order suspending the respondent from practice before the Board, the Immigration Courts, and DHS for 6 months (Gov't Mot. at 3).

The respondent confirms that he is not requesting a hearing before the Office of the Chief Immigration Judge and "consents to a decision based on the pleadings and the record" (Respondent's Resp. at 3). The respondent has admitted, and the record evidence shows, that he has been suspended from practice before the Ninth Circuit, and this fact is sufficient to establish that summary disciplinary proceedings are appropriate. *See* 8 C.F.R. § 1003.103(b)(2); *see also* 8 C.F.R. § 1003.102(e). We therefore will proceed in summary disciplinary proceedings.

When Disciplinary Counsels for EOIR and DHS bring disciplinary proceedings based on a final order of suspension or disbarment, like in the respondent's case, the order establishes 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 can rebut this presumption by demonstrating by "clear and convincing evidence" that:

- (i) The underlying disciplinary proceeding was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
- (ii) There was such an infirmity of proof establishing the attorney's professional misconduct as to give rise to the clear conviction that the adjudicating official could not, consistent with his or her duty, accept as final the conclusion on that subject; or
- (iii) The imposition of discipline by the adjudicating official would result in grave injustice.

8 C.F.R. § 1003.103(b)(2)(i)-(iii).

The respondent has not expressly invoked the foregoing exceptions, in that he has not specifically claimed that his Ninth Circuit disciplinary proceeding was lacking in notice or an opportunity to be heard, that there was an infirmity of proof, or that imposition of discipline would result in a grave injustice (Respondent's Resp. at 1-7). To the extent that the respondent's arguments and assertions that essentially take issue with the Ninth Circuit's suspension order may be construed as implicitly invoking these exceptions, they are unavailing. The record evidence

includes the order from the Ninth Circuit which “adopted in full” the Appellate Commissioner’s Report and Recommendation regarding disciplinary charges against the respondent. Based on the Report and Recommendation, to which the Ninth Circuit noted the respondent filed no objections, the Ninth Circuit ordered the respondent suspended from practice before the court for 6 months.

Notably, with his answer to the NID, the respondent presented no evidence, more so “clear and convincing evidence,” in support of the arguments and theories he advances in his answer to the NID. *Id.* The respondent’s otherwise bare assertions and opinions do not constitute as evidence sufficient to rebut the presumption of professional misconduct that warrant reciprocal disciplinary sanction based on his final order of suspension in the Ninth Circuit.² *See id.* The Disciplinary Counsels for EOIR and DHS have sustained the charge against the respondent and have established that he is subject to reciprocal discipline due to his suspension in the Ninth Circuit.

The respondent in his answer to the NID largely does not dispute that disciplinary sanctions are warranted, only that the appropriate sanction should be limited to a warning or admonition (Respondent’s Resp. at 6). The respondent has not provided us with any persuasive evidence to justify these lower sanctions, particularly considering his lack of objection to the Appellate Commissioner’s Report and Recommendation of suspension to the Ninth Circuit. *See Matter of Kronegold*, 25 I&N Dec. at 161-62 (finding that, in cases involving reciprocal discipline, it is inappropriate to relitigate issues related to merits of the underlying disciplinary proceedings). The sanction proposed by Disciplinary Counsels in the NID is appropriate in light of the respondent’s suspension in the Ninth Circuit. *See id.* (following deferential approach and imposing identical reciprocal discipline against suspended or disbarred practitioners). We will honor the proposed discipline and will order the respondent suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for 6 months. Because it is undisputed that the respondent did not timely notify Disciplinary Counsels for EOIR and DHS of his suspension in the Ninth Circuit that was effective November 24, 2025, we decline to set the period of suspension “nunc pro tunc” to the effective date of the Ninth Circuit order, as requested by the respondent (Respondent’s Resp. at 3, 7). *See* 8 C.F.R. §§ 292.3(c)(4), 1003.103(c) (requiring practitioners to notify Disciplinary Counsels within 30 days of order of the issuance of the order of discipline). The respondent’s period of suspension of 6 months will commence 15 days after the date of this order. *See* 8 C.F.R. § 1003.105(d)(2). The following orders will be entered.

² In addition to the absence of evidence, there is also an absence of objective details in the respondent’s factual and legal assertions and allegations. For instance, while the respondent suggests that his misconduct involves an “isolated instance of neglect” and no “actual or potential injury,” he presents no details to support these assertions (Respondent’s Resp. at 4). Likewise, while the respondent claims that his “intentional tactical decisions” (which is facially contrary to his general assertion that his actions or inactions were merely negligent) “to waive non-essential issues is a standard and acceptable legal tactic,” he provides no details or examples that would support these characterizations or his ultimate contention that his decisions in this regard were “hallmark[s] of competent appellate advocacy” (Respondent’s Resp. at 5).

ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for 6 months. The suspension will commence 15 days after the date of this order. *See* 8 C.F.R. § 1003.105(d)(2).

FURTHER ORDER: The respondent shall promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the 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 respondent is instructed to 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 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.