

Falls Church, Virginia 22041

File: D2018-0327

Date: MAR 21 2019

In re: Youry ZIANOVICH a.k.a. Youras Ziankovich a.k.a. Youry Ziankovich, Attorney

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

PETITION FOR IMMEDIATE SUSPENSION

ON BEHALF OF EOIR: Paul A. Rodrigues
Disciplinary Counsel

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

ON BEHALF OF RESPONDENT: Pro se

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

On October 31, 2018, the hearing board for the presiding disciplinary judge of the Supreme Court of Colorado suspended the respondent from the practice of law in Colorado for 1 year and 1 day, with 3 months to be served and the remainder to be stayed upon successful completion of a 2-year period of probation, effective immediately (Petition for Immediate Suspension, Exh. 1).

The hearing board for the presiding disciplinary judge of the Supreme Court of Colorado on June 20, 2018, issued an amended opinion (Petition for Immediate Suspension, Exh. 2). That opinion described how the respondent was admitted to practice law in New York in 2014, and is not admitted to practice law in Colorado. *Id.* at 3. The opinion further discussed how the respondent had moved to dismiss the case because he is not licensed in Colorado and his law practice is limited to federal immigration cases. *Id.* at 1. The motion was denied, and the Colorado Supreme Court dismissed the respondent's appeal. *Id.* at 2; Disciplinary Counsel for the Executive Office for Immigration Review ("Disciplinary Counsel for EOIR") "Response to Opposition to Motion for Immediate Suspension" at Exh. 1.

The hearing board opinion discussed how the respondent committed numerous disciplinary infractions concerning immigration clients. (Petition for Immediate Suspension, Exh. 2 at 3-12). These included charging an unreasonable fee, and committing conduct involving dishonesty, fraud, deceit, or misrepresentation. *Id.* at 9-12. The decision of the hearing board for the presiding disciplinary judge of the Supreme Court of Colorado was affirmed by the Supreme Court of Colorado on February 1, 2019 (Disciplinary Counsel for EOIR "Response to Opposition to Motion for Immediate Suspension" at 3; Exh. 2).

The Disciplinary Counsel for EOIR petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts on January 29, 2019, and states that the respondent remains suspended from the practice of law in

Colorado, as of the date of its filing.¹ The Disciplinary Counsel for DHS asks that the respondent be similarly suspended from practice before that agency. See 8 C.F.R. §§ 1003.103(a)(1) and (4) (discussing grounds for immediate suspension, including suspension by the highest court of any state).

The respondent argues in an “Opposition to Motion For Immediate Suspension” that an immediate suspension order should not issue, and the Disciplinary Counsel for EOIR filed a response. Cf. 8 C.F.R. § 1003.103(a)(4) (immediate suspension order may be set aside “[u]pon good cause shown... when it appears in the interest of justice to do so”); *Matter of Rosenberg*, 24 I&N Dec. 744, 745 (BIA 2009).

The respondent argues that he is not subject to discipline in Colorado, as he is licensed only in New York and practices federal law (Respondent’s Opp.). His arguments have been rejected by the presiding disciplinary judge of the Supreme Court of Colorado, and by the Supreme Court of Colorado. The respondent notes that he is pursuing his claims in the United States District Court for the District of Colorado. *Id.*² However, the respondent currently remains suspended from the practice of law in Colorado. We take no position on the merits of the respondent’s challenge to the discipline proceedings in Colorado. Because the respondent is suspended from the practice of law in Colorado, we are required by regulation to suspend him from the practice of law before the Board, the Immigration Courts, and the DHS. 8 C.F.R. § 1003.103(a)(4). We will, therefore, grant the immediate suspension order.

ORDER: The petition is granted, and the respondent is immediately suspended from the practice of law before the Board, the Immigration Courts, and the DHS. 8 C.F.R. § 1003.103(a)(4).

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.


¹ The Disciplinary Counsel for EOIR originally filed a petition for immediate suspension on December 21, 2018, but re-filed and re-served the document, and the Notice of Intent to Discipline, to cure any defect in service in the original filings, after the respondent filed motions arguing that service was improper (Petition for Immediate Suspension, at n. 1; Respondent’s “Answer on DHS’ Motion”; “Motion to Dismiss the Disciplinary Case”).

² On December 26, 2018, the United States Court of Appeals for the Tenth Circuit vacated the district court’s order of dismissal. *Ziankovich v. Large*, 745 F. App’x 800 (10th Cir. 2018). The Tenth Circuit determined that, as the Colorado disciplinary proceedings had ended, the district court had no further reason to abstain under *Younger v. Harris*, 401 U.S. 37 (1971). The Tenth Circuit remanded the case to the district court to consider the respondent’s claims and expressed no opinion on the merits of the claim.

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

FURTHER ORDER: The respondent may file an answer to the Notice of Intent to Discipline within 30 days.

A handwritten signature in cursive script, appearing to read "Carmelo", is written above a horizontal line.

FOR THE BOARD

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DISSENTING OPINION: Michael J. Creppy

I respectfully dissent.

The attorney discipline regulations contemplate that the Board impose reciprocal discipline when a disciplinary body issue sanctions that affect an individual's license to practice law within its jurisdiction. The respondent's license to practice law has not been suspended or revoked. Moreover, the Colorado Supreme Court, in my view, lacks jurisdiction to discipline the respondent, whose law practice is limited to federal immigration cases, and this issue is the subject of ongoing litigation. The Disciplinary Counsel for the Executive Office for Immigration Review would have authority under 8 C.F.R. § 1003.101(a) to impose disciplinary sanctions upon finding it in the public interest to do so.


MICHAEL J. CREPPY