

Falls Church, Virginia 22041

File: D2019-0034

Date: DEC 02 2019

In re: Patrick C. HYDE, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

On January 22, 2019, the presiding disciplinary judge of the Supreme Court of Colorado issued an "Order And Notice of Suspension" after a disciplinary hearing by the Colorado Hearing Board. The judge suspended the respondent from the practice of law in Colorado for 6 months, effective nunc pro tunc to January 18, 2019, based on the respondent's misconduct concerning an immigration matter.

The Disciplinary Counsel for the Executive Office for Immigration Review ("Disciplinary Counsel for EOIR") petitioned for the respondent's immediate suspension from practice before the Board and the Immigration Courts on February 22, 2019. The Disciplinary Counsel for the DHS asked that the respondent be similarly suspended from practice before that agency.

While the petition for immediate suspension was pending, the respondent filed an answer to the Notice of Intent to Discipline, and the Disciplinary Counsel for EOIR submitted a "Motion for Summary Adjudication." The respondent asserted that he was under an "administrative order" of suspension that was on appeal to the Colorado Supreme Court. The respondent also argued that the presiding disciplinary judge of the Supreme Court of Colorado erred in suspending him from the practice of law in Colorado.

The Board's April 18, 2019, order noted that a petition for immediate suspension will be granted when a practitioner is suspended by the highest court of any state, including where a respondent is placed on interim suspension pending a final resolution of a disciplinary matter. *See* 8 C.F.R. §§ 1003.103(a)(1) and (4).

Contrary to the respondent's implied argument, we observed, a final decision of the Colorado Hearing Board is considered to be an order of the Colorado Supreme Court, unless it is "stayed, vacated, reversed, or otherwise modified by order of the [Colorado] Supreme Court." Colorado Rules of Civil Procedure 251.19(b)(6).

We considered that the respondent presented no evidence that his suspension had been stayed pending appeal to the Colorado Supreme Court. Therefore, our April 18, 2019, decision, immediately suspending the respondent from practice before the Board, the Immigration Courts, and the DHS was properly issued.

Our April 18, 2019, decision also stayed the proceedings concerning the Notice of Intent to Discipline pending the conclusion of the disciplinary proceedings before the Supreme Court of Colorado. The parties were ordered to file supplemental briefs within 30 days of the decision of the Supreme Court of Colorado concerning the respondent.

On November 1, 2019, the Disciplinary Counsel for EOIR filed a "Notice of Colorado Supreme Court Decision and Renewed Motion for Summary Adjudication," to which the respondent has not responded. The Disciplinary Counsel for EOIR submits an August 30, 2019, decision of the Colorado Supreme Court, affirming the order of the Colorado Hearing Board. The Disciplinary Counsel for EOIR says that he just recently became aware of this decision.

As the Disciplinary Counsel for EOIR argues, the respondent has not established that there is a material issue of fact in his case (Disciplinary Counsel for EOIR's "Notice of Colorado Supreme Court Decision and Renewed Motion for Summary Adjudication" at 3). In particular, the respondent has not made a prima facie showing that there is a material issue of fact regarding the basis of the proceeding (his suspension in Colorado), and the respondent has not shown that any of the exceptions to the imposition of disciplinary sanctions exist in his case. *See* 8 C.F.R. §§ 1003.102(e) (practitioner subject to discipline by Board when he is subject to a final order of suspension); 1003.106(a); 1003.103(b)(2)(i)-(iii).

The Board will, therefore, issue a final order suspending the respondent from practice before the Board, the Immigration Courts, and the DHS for 6 months.

ORDER: The Disciplinary Counsel for EOIR's "Notice of Colorado Supreme Court Decision and Renewed Motion for Summary Adjudication" is granted.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS for 6 months. The respondent's suspension is deemed to have commenced on April 18, 2019, the date of the Board's immediate suspension order.

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.

D2019-0034

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.



FOR THE BOARD