

NOT FOR PUBLICATION

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

MATTER OF:

Patricia L. RIOS, D2021-0112

Respondent

FILED

OCT 13 2021

ON BEHALF OF RESPONDENT: Pro se

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

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

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

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

Opinion by Appellate Immigration Judge Liebowitz

LIEBOWITZ, Appellate Immigration Judge

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 a period of 30 days, effective June 1, 2021. In addition, the respondent's request for reinstatement will be denied.

On April 19, 2021, the Indiana Supreme Court issued an order, effective June 1, 2021, suspending the respondent from the practice of law in Indiana for 90 days, with 30 days actively served and the remainder stayed pending completion of 545 days of probation. On June 3, 2021, the Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) and the Disciplinary Counsel for the DHS filed a Joint Notice of Intent to Discipline in which they propose that the respondent be suspended from practice before the Board, the Immigration Courts, and the DHS, for a period of 30 days, effective as of the date of the Indiana Supreme Court's suspension order. On that same date, Disciplinary Counsels jointly petitioned for the respondent's immediate suspension from practice before the Board, the Immigration Courts, and the DHS. We granted the petition on June 30, 2021.

The Board subsequently received a letter from the respondent, sent by certified mail on August 3, 2021, requesting that the same "stipulations" in the Indiana Supreme Court's April 19, 2021, order, be imposed. Specifically, the respondent requests that because her suspension under the Indiana Supreme Court's order expired on July 1, 2021, the Board should "lift [her] suspension and place [her] into a probationary status." On August 23, 2021, Disciplinary Counsels filed a motion for summary adjudication with the Board, opposing that respondent's motion to set aside

the immediate suspension order, and requesting that we issue a final order suspending the respondent from practice before the Board, the Immigration Courts, and the DHS, for a period of 30 days, effective as of the date of the final order, rather than, as originally proposed, for a period that runs concurrently with her suspension in Indiana.

As noted by Disciplinary Counsels, the respondent's correspondence is not properly captioned. Construing the respondent's correspondence as a motion to set aside our June 30, 2021, immediate suspension order, the respondent has not established that good cause justifies setting aside this order. 8 C.F.R. § 1003.103(a)(4). The respondent does not dispute the fact that the Indiana Supreme Court ordered her suspended from the practice of law. Rather, she argues that the Petition for Immediate Suspension and the Board's decision "reads that [her] law license has been suspended for the entire duration to and including the probationary period or approximately seventeen (17) months remaining," adding that "Indiana did not suspend my license for the entire length of time as stated in your petition." Contrary to the respondent's assertion, the Petition for Immediate Suspension, and the Board's decision, accurately stated, verbatim, the sanction imposed by the Indiana Supreme Court, and neither the Petition nor the Board's decision stated, expressly or implicitly, that the respondent was suspended for 17 months. Because the Disciplinary Counsels for EOIR and the DHS have submitted proof that the respondent was suspended from the practice of law in Indiana, this suspension justified the respondent's immediate suspension. 8 C.F.R. § 1003.103(a)(4).

Construing the respondent's correspondence as a response to the Notice of Intent to Discipline, such a response was not timely filed. *See* 8 C.F.R. § 1003.105(c). Accordingly, the allegations in the Notice of Intent to Discipline are deemed admitted, and no further evidence with respect to the allegations need be adduced. *See* 8 C.F.R. § 1003.105(d).

The Notice of Intent to Discipline proposed that the respondent be suspended from practice before the Board, the Immigration Courts, and the DHS, for a period of 30 days, effective June 1, 2021, the date of the Indiana Supreme Court's suspension order. Because the respondent has failed to file a timely answer to the Notice of Intent to Discipline, the regulations direct us to adopt the proposed sanction contained in the Notice of Intent to Discipline. 8 C.F.R. § 1003.105(d)(2). While Disciplinary Counsels recently sought to amend the sanction proposed, this new proposed sanction arose from alleged acts that were not the basis of the Notice of Intent to Discipline. Under these circumstances, we are not compelled to digress from the proposed sanction contained in the Notice of Intent to Discipline. *See id.* The proposed sanction in the Notice of Intent to Discipline is appropriate in light of the respondent's suspension in Indiana. We will, therefore, order the respondent suspended from practice before the Board, the Immigration Courts, and the DHS, for a period of 30 days, effective June 1, 2021.

Finally, construing the respondent's correspondence as a motion for reinstatement, the respondent submitted a copy of the Indiana Supreme Court order, and asserted that her 30 day mandatory suspension ended as of July 1, 2021, and that she is now practicing law in Indiana while on probation. While Disciplinary Counsels do not dispute that the respondent is now eligible to practice law in Indiana, they nevertheless oppose the respondent's reinstatement because she did not comply with the terms of the Board's June 30, 2021, order of suspension pending final

disposition of the instant disciplinary proceedings. In support of their assertions, Disciplinary Counsels submitted copies of four Notices of Entry of Appearance (Form G-28) filed by the respondent with the United States Citizenship and Immigration Services (USCIS) between July 15, 2021 and August 16, 2021, while the respondent was under the Board's June 30, 2021, suspension order (Disciplinary Counsels' Motion for Summary Adjudication at 2, and Exhibits 1-4).

The evidence submitted by the Disciplinary Counsels established that the respondent did not comply with the Board's suspension order (Disciplinary Counsels' Motion for Summary Adjudication at 2, and Exhibits 1-4). We, therefore, 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 respondent may file another motion for reinstatement with the Board that is accompanied by an explanation for her prior non-compliance and that is consistent with the requirements for such a motion. *See* 8 C.F.R. § 1003.107. The following orders will be entered.

ORDER: The respondent's motion to set aside our June 30, 2021, immediate suspension order is denied.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and the DHS for 30 days, effective June 1, 2021.

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

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.