

NOT FOR PUBLICATION

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

MATTER OF:

Thomas P. HAYES, D2021-0016

Respondent

FILED

JAN 18 2022

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: Wetmore, Chief Appellate Immigration Judge; Malphrus, Deputy Chief Appellate
Immigration Judge; Liebowitz, Appellate Immigration Judge

Opinion by Chief Appellate Immigration Judge Wetmore

WETMORE, Chief Appellate Immigration Judge

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

On July 22, 2020, the 25th District Court for Colorado County, Texas, issued a judgment adjudicating the respondent guilty of violating Texas Health and Safety Code § 481.115(c), possession of a controlled substance, a third degree felony. On February 6, 2021, the Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) and the Disciplinary Counsel for the DHS jointly petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals, the Immigration Courts, and the DHS due to his conviction for this offense, which qualifies as a serious crime as defined in 8 C.F.R. § 1003.102(h). We granted the petition on March 2, 2021.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline but has failed to do so. *See* 8 C.F.R. § 1003.105. The respondent's failure to file a response within the time period prescribed in the Notice of Intent to Discipline constitutes an admission of the allegations therein, and the respondent is now precluded from requesting a hearing on the matter. 8 C.F.R. § 1003.105(d)(1).

The Notice of Intent to Discipline proposes that the respondent be disbarred from practice before the Board of Immigration Appeals, the Immigration Courts, and the DHS. Because the respondent has failed to file an answer, the regulations direct us to adopt the proposed sanction contained in the Notice of Intent to Discipline, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. § 1003.105(d)(2).

The proposed sanction is appropriate in light of the respondent's conviction for a serious crime. We therefore will honor the proposed discipline and will order the respondent disbarred from practice before the Board of Immigration Appeals, the Immigration Courts, and the DHS. Further, as the respondent remains suspended under our March 2, 2021, order of immediate suspension, his disbarment will be effective as of that date.

ORDER: The Board hereby disbars the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and the DHS, effective March 2, 2021.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior order. The respondent must 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.