

NOT FOR PUBLICATION

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

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MATTER OF:

Samuel Lee MASDON, III, D2021-0058

Respondent

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**FILED**

JUN 03 2022

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

ON BEHALF OF DHS: Toinette M. Mitchell, Disciplinary Counsel

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

Before: Liebowitz, Appellate Immigration Judge, Brown, Temporary Appellate Immigration Judge; Manuel, Temporary Appellate Immigration Judge<sup>1</sup>

Opinion by Appellate Immigration Judge Liebowitz

LIEBOWITZ, Appellate Immigration Judge

The respondent will be indefinitely suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security ("DHS"), effective 15 days from the issuance of this order.

On March 3, 2022, the Disciplinary Counsel for the Executive Office of Immigration Review ("EOIR") and the Disciplinary Counsel for DHS filed a Joint Notice of Intent to Discipline. This Joint Notice of Intent to Discipline charged the respondent with engaging in the unauthorized practice of law, repeated failure to appear for scheduled hearings in violation of 8 C.F.R. § 1003.102(l), failing to provide competent representation in violation of 8 C.F.R. § 1003.102(o), and failing to act with reasonable diligence in violation of 8 C.F.R. § 1003.102(q).

In support of these charges, the Disciplinary Counsels allege that on October 1, 2019, the respondent changed his Alabama law license from an occupational license to a special membership that does not allow him to engage in the private practice of law in Alabama (Notice of Intent to Discipline, Exhs 1 and 2). Ala. Code §§ 34-3-6, 34-3-17, and 34-3-18. The Disciplinary Counsels further allege that, on September 27, 2021, the Disciplinary Board of the State Bar of Alabama transferred the respondent to disability inactive status, effective immediately (Notice of Intent to Discipline, Exh. 3). The Disciplinary Counsels accordingly contend that the respondent has not met the definition of attorney set forth in 8 C.F.R. § 1001.1(f) since October 2019 and therefore is

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<sup>1</sup> Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. *See generally* 8 C.F.R. § 1003.1(a)(1), (4).



not authorized to practice before the Board of Immigration Appeals, the Immigration Courts, or DHS (Notice of Intent to Discipline at 3-4). The respondent, nevertheless, remains the attorney of record in 86 cases pending before the Immigration Courts (Notice of Intent to Discipline, Exh. 4).

The Disciplinary Councils additionally charge that the respondent has failed to appear for at least 3 scheduled hearings for 3 different clients without good cause (Notice of Intent to Discipline at 2-4), and that he failed to provide competent representation to these clients (Notice of Intent to Discipline at 2-4). Finally, the Disciplinary Councils contend that the respondent failed to act with reasonable diligence and promptness in representing the 3 clients (Notice of Intent to Discipline at 2-4).

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 no further evidence need be adduced. 8 C.F.R. § 1003.105(d)(1). Also, given this failure to respond, the respondent is precluded from requesting a hearing in the matter. 8 C.F.R. § 1003.105(d)(2).

The Disciplinary Councils have moved for the entry of a final order of discipline. In their motion, the Disciplinary Councils state that they served the respondent with the Notice of Intent to Discipline by certified mail at his address of record with EOIR and by email using the email addresses of record with EOIR and the Alabama State Bar (Motion for Entry of Final Order at 1). The Disciplinary Councils have attached proof of a certified mailing to their motion (Motion for Entry of a Final Order, Attachments 1 and 2).

If the respondent has been properly served with the Notice of Intent to Discipline and fails to respond, the regulations state that this Board "shall issue a final order adopting the proposed disciplinary sanctions in the Notice of Intent to Discipline unless to do so would foster a tendency toward inconsistent dispositions for comparable conduct or would otherwise be unwarranted or not in the interests of justice." 8 C.F.R. § 1003.105(d)(2). The Disciplinary Councils argue that the proposed sanction of indefinite suspension is appropriate because the respondent has engaged in conduct that violates a duty owed as a professional and causes injury or potential injury to a client, the public or the legal system.

In particular, the Disciplinary Councils contend that, by failing to withdraw as the attorney of record in numerous cases pending before the Immigration Courts, the respondent has harmed his clients and the Immigration Courts. The Disciplinary Councils maintain that, when this misconduct is weighed with the aggravating factors of multiple offenses, vulnerable victims, and substantial experience in the practice of law, and the mitigating factors of no prior disciplinary record, the absence of a selfish or dishonest motive, and physical disability, the proper sanction is indefinite suspension.

We agree that indefinite suspension is appropriate in this case. Standard 7.2 of the American Bar Association's Standards for Imposing Lawyer Sanctions (ABA Standards) states that suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation



of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system. ABA Standards at 350. There is nothing in the record to indicate that the respondent's actions were not knowing. Further, while the respondent's apparent physical disability and the absence of prior disciplinary violations are mitigating factors, the large number of clients potentially affected by his conduct and the vulnerability of these clients are aggravating factors.

Based on the foregoing, we will honor the proposed discipline and will order the respondent indefinitely suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. Because the respondent currently is not subject to an order of suspension before EOIR or DHS, the order of suspension will become effective 15 days from the issuance of this order. 8 C.F.R. § 1003.105(d)(2).

ORDER: The Board hereby indefinitely suspends the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS, effective 15 days from the issuance of this order.

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