

NOT FOR PUBLICATION

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

MATTER OF:

Marie Gerard HERNANDEZ, D2022-0179

Respondent

FILED

DEC 21 2022

ON BEHALF OF RESPONDENT: Pro se

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: Malphrus, Deputy Chief Appellate Immigration Judge; Noferi, Temporary Appellate
Immigration Judge¹; Brown, Temporary Appellate Immigration Judge

Opinion by Deputy Chief Appellate Immigration Judge Malphrus

MALPHRUS, Deputy Chief Appellate Immigration Judge

The respondent will be suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security ("DHS") for one year, effective November 9, 2022.

On May 3, 2022, the District 10 Grievance Committee, Evidentiary Panel 10-1, State Bar of Texas, issued a judgment suspending the respondent from the practice of law in Texas for a period of one year, effective April 28, 2022. The judgment also provided that if the respondent timely complies with the terms and conditions set forth therein, the respondent will begin a two-year probated suspension beginning on April 28, 2023. On October 24, 2022, the Disciplinary Counsel for the Executive Office for Immigration Review ("EOIR") and the Disciplinary Counsel for the Department of Homeland Security ("DHS") jointly petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. We granted the petition on November 9, 2022.

The respondent was required to file a timely answer to the allegations contained in the Joint 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 Joint Notice of Intent to Discipline

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

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 Joint Notice of Intent to Discipline proposes that the respondent be suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for one year. Because the respondent has failed to file an answer, the regulations direct us to adopt the proposed sanction contained in the Joint 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 suspension in Texas. We therefore will honor the proposed discipline and will order the respondent suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for one year. Further, as the respondent is currently suspended under our November 9, 2022, order of suspension, the respondent's suspension will be effective as of that date.

ORDER: The Board hereby suspends the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS for one year, effective November 9, 2022.

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 DHS.

FURTHER ORDER: The respondent may petition this Board for reinstatement to practice before the Board, the Immigration Courts, and DHS under 8 C.F.R. § 1003.107.