

NOT FOR PUBLICATION

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

MATTER OF:

Eduardo F. JUSTO DE POMAR, D2022-0084

Respondent

FILED

JAN 19 2023

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

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

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
On Motion from a Decision of the Board of Immigration Appeals

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

Opinion by Malphrus, Deputy Chief Appellate Immigration Judge

MALPHRUS, Deputy Chief Appellate Immigration Judge

In a decision dated August 29, 2022, we suspended the respondent from practice before the Board of Immigration Appeals (“Board”), the Immigration Courts, and the Department of Homeland Security (“DHS”), for a period of five months, commencing on May 28, 2022, based on the respondent’s suspension from the practice of law in the District of Columbia. On November 9, 2022, the respondent filed a motion seeking reinstatement to practice. The Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and the Disciplinary Counsel for DHS oppose the respondent’s motion for reinstatement. The respondent’s motion for reinstatement will be denied.

On April 28, 2022, the District of Columbia Court of Appeals issued a final order suspending the respondent from the practice of law in the District of Columbia for a period of nine months, with 120 days stayed with conditions, effective May 28, 2022. The suspension was based on the respondent’s violation of several D.C. Rules of Professional Conduct.

On June 27, 2022, Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and Disciplinary Counsel for DHS filed a Joint Notice of Intent to Discipline, as well as

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

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a Joint Petition for Immediate Suspension, based upon the respondent's suspension in the District of Columbia. We granted the Joint Petition for Immediate Suspension on July 19, 2022.

The respondent did not file a timely answer to the Notice of Intent to Discipline ("NID") and did not dispute the allegations in the NID. Because the proposed sanction of a five-month suspension was appropriate given his suspension in the District of Columbia, we issued a final order on August 29, 2022, suspending the respondent from practice before the Board, the Immigration Courts, and DHS for five months, effective May 28, 2022.

On November 9, 2022, the respondent filed a motion seeking reinstatement to practice before the Board, the Immigration Courts, and DHS, claiming that he has complied with the requirements and conditions to qualify as an attorney under 8 C.F.R. § 1001.1(f). *See* 8 C.F.R. § 1003.107(a)(1) (discussing requirements for reinstatement). In support of his motion, he has presented evidence showing that he is able to resume the practice of law in the District of Columbia (Respondent's Motion at A3, A4).

Disciplinary Counsels for EOIR and DHS do not dispute that the respondent's period of suspension has expired or that he now meets the definition of attorney set forth in 8 C.F.R. § 1001.1(f). Disciplinary Counsels, nevertheless, oppose the respondent's motion for reinstatement on the ground that he has not complied with the terms of suspension. *See* 8 C.F.R. § 1003.107(a)(2). In support of their assertions, Disciplinary Counsels have submitted evidence showing that the respondent filed a Notice of Entry of Appearance (Form G-28) and a benefit request with the U.S. Citizenship and Immigration Services ("USCIS") on behalf of a client on November 7, 2022 (Joint Opp'n to Reinstatement at 2, Attachment 1). In light of such evidence, Disciplinary Counsels ask the Board to deny the respondent's motion for reinstatement.

The evidence submitted by Disciplinary Counsels establishes that the respondent has not complied with the Board's suspension order. The respondent does not dispute this allegation, and he also discloses that his office prematurely filed with USCIS Form G-28s that named him as counsel in seven other applications while he was still under the suspension order. While we appreciate the respondent's candor and acknowledge his expressed regret for what he claims was an unintentional mistake in his filings with USCIS, the respondent has not established that he is entitled to reinstatement to practice before the Board, the Immigration Courts or DHS, at this time. *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). Pursuant to the regulations, we must deny the respondent's motion for reinstatement. *See id.* We order that the respondent remain suspended for an additional 60 days, effective October 28, 2022, the date his original period of suspension expired.

ORDER: The respondent's motion for reinstatement is denied.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS for 60 days, effective October 28, 2022.

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

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.