

NOT FOR PUBLICATION

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

MATTER OF:

Erick G. Garcia HERNANDEZ, D2023-0093

Respondent

FILED

JUN 28 2023

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, Chief Appellate Immigration Judge, Liebowitz, Appellate Immigration Judge,
Noferi, Temporary Appellate Immigration Judge¹

Opinion by Malphrus, Chief Appellate Immigration Judge

MALPHRUS, 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 a period of two years, effective May 15, 2023.

On March 22, 2023, the Supreme Court of California issued a final order suspending the respondent from the practice of law in California for a period of three years, with the execution of that period stayed. The order also placed the respondent on probation for three years subject to certain conditions, including suspension from the practice of law in California for a minimum of the first two years of probation, effective April 21, 2023. On May 1, 2023, the Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and the Disciplinary Counsel for the Department of Homeland Security (“DHS”) filed a Joint Notice of Intent to Discipline, as well as a Joint Petition for Immediate Suspension, based upon the respondent’s suspension in California. We granted the Joint Petition for Immediate Suspension on May 15, 2023.

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

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. 8 C.F.R. § 1003.105(d)(1). The respondent's failure to file a response within the time prescribed in the Joint 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)-(2).

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 a period two years, effective as of the date of the Board's immediate suspension order. Because the respondent did not 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 California. We 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 a period of two years, effective May 15, 2023.

ORDER: The Board hereby suspends the respondent from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS, for a period of two years, effective May 15, 2023.

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.