

Falls Church, Virginia 22041

File: D2004-087

Date: JUL - 9 2004

In re: BARBARA W. KAMALI, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Esquire

ON BEHALF OF DHS: Eileen M. Connolly, Appellate Counsel

On April 29, 2004, the Office of General Counsel for the Executive Office for Immigration Review ("OGC") instituted disciplinary proceedings against the respondent.¹ The disciplinary proceedings were based on an April 21, 2004, Board order concerning Anisa Sheref, A78-408-318.

In the Board's order concerning Ms. Sheref, we found that Kamali provided ineffective assistance of counsel by failing to submit a brief on appeal, as promised. Kamali represented Ms. Sheref at her removal hearing. Kamali submitted a Notice of Appeal, and checked a box on the Notice of Appeal indicating that she would file a brief on Ms. Sheref's behalf. The Board issued a briefing schedule on December 26, 2002. Ms. Sheref was given until January 16, 2003, to file a brief in support of the appeal. On August 14, 2003, Ms. Sheref, represented by different counsel, requested leave to file her late brief and substitute counsel. In an affidavit submitted with her request to file a late brief, Ms. Sheref asserted that Kamali told her that a brief would be filed. Kamali later told Ms. Sheref that she would file the brief late, with an extension of time requested. According to Sheref, Kamali thereafter did not respond to her many messages and letters. Ms. Sheref filed a complaint with the Florida Bar concerning Kamali's actions. We found that Ms. Sheref had generally complied with the requirements of *Matter of Assaad*, 23 I&N Dec. 553 (BIA 2003), and *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988) for making a claim of ineffective assistance of counsel. We further determined that, in the absence of any explanation from Kamali, by failing to submit a brief on Ms. Sheref's behalf, Kamali provided ineffective assistance of counsel to Ms. Sheref. We went on to grant Ms. Sheref asylum under section 208 of the Immigration and Nationality Act, 8 U.S.C. § 1158.

On May 3, 2004, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) asked that any punishment applied to the respondent also apply to practice before the DHS.

¹The OGC did not petition for the respondent's immediate suspension from practice pending final disposition of this proceeding, under 8 C.F.R. § 1003.103(a).

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(c)(1). The respondent's failure to file a response within the time period prescribed in the Notice 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 Notice recommends that the Board issue a public censure against the respondent. *See* 8 C.F.R. § 1003.101(a)(3). We find that there are grounds for a public censure of the respondent. *See* 8 C.F.R. § 1003.102(k)(finding by Board that respondent has engaged in conduct that constitutes ineffective assistance of counsel is grounds for discipline). Therefore the following order will issue.

ORDER: Pursuant to 8 C.F.R. §§ 1003.102(k) and 1003.101(a)(3), the respondent is censured for actions taken with respect to the removal case of Anisa Sheref, A78-408-318, as described in this order and in the Board's decision of April 21, 2004.



FOR THE BOARD