

Falls Church, Virginia 22041

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File: D2003-168

Date: FEB 18 2004

In re: MICHAEL OZULUMBA, 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 July 31, 2003, the Office of General Counsel for the Executive Office for Immigration Review ("OGC") instituted disciplinary proceedings against the respondent.<sup>1</sup> The disciplinary proceedings were based on a June 19, 2003, Board order concerning Wilberforce Kateregga, A78-204-483. Mr. Kateregga was represented by respondent Ozulumba at the time that Kateregga received an order of removal in absentia on September 19, 2000. Mr. Kateregga then filed a motion to reopen with the Immigration Judge, an appeal with this Board, and a motion to reopen with this Board. All of these efforts were unsuccessful. Through new counsel, Kateregga filed another motion to reopen with the Board, claiming that respondent Ozulumba had provided ineffective assistance of counsel by failing to appear with him at a scheduled hearing, instructing him not to appear, and encouraging him to submit a false affidavit. In our July 19, 2003, decision which considered this motion, we noted that respondent Ozulumba had failed to respond to these serious charges, and remanded the case to the Immigration Judge for further proceedings.

On August 5, 2003, 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.

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).

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<sup>1</sup>The 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 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 Wilberforce Kateregga, A78-204-483, as described in this order and in the Board's decision of June 19, 2003.



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FOR THE BOARD