

Falls Church, Virginia 22041

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File: D2003-124

Date: OCT - 9 2003

In re: JOHN KIRBY VAWTER, 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

ORDER:

PER CURIAM. The respondent pled guilty to one count of obstruction of a court order, in violation of 18 U.S.C. § 1509, in the United States District Court for the Southern District of California. On April 17, 2003, the court accepted the guilty plea and found the respondent guilty as charged. The misdemeanor crime involves misrepresentation and fraud and is a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h).

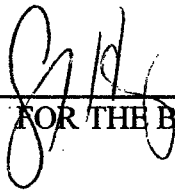
Consequently, on July 31, 2003, the Office of General Counsel for the Executive Office for Immigration Review (the OGC) petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On August 5, 2003, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) asked that the respondent be similarly suspended from practice before that agency. Therefore, on August 21, 2003, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline. *See* 8 C.F.R. § 1003.105(c)(1). On September 2, 2003, the respondent filed an "Answer to Petition for Immediate Suspension and Notice of Intent to Discipline." The respondent argues that the Board should set aside its order of immediate suspension. The respondent states that he did not set out to interfere with a court order, that his client was involved in criminal, not immigration, proceedings, and he has not been disciplined by the California state bar. The OGC states that it opposes the respondent's request to set aside the immediate suspension order, or to have the case held in abeyance. We find no basis for setting aside the immediate suspension order, or holding the case in abeyance. The fact that the respondent has been convicted of a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h) is a basis for discipline, regardless of any subsequent action taken by the California state bar.

In his Answer, the respondent admits the OGC's allegations and concedes that his conviction is for a serious crime involving interference with the administration of justice. The respondent does not request a hearing on the charges, and that opportunity is therefore waived. *See* 8 C.F.R. § 1003.105(c)(3). We therefore find it appropriate to issue a final order on the OGC's charges.

The Notice of Intent to discipline recommends that the respondent be suspended from practicing before the Board and the Immigration Courts, for a period of 6 months. The DHS asks that we extend that discipline to practice before it as well. Since the recommendation is appropriate in light of the respondent's criminal record, we will honor that recommendation. Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 6 months. As the respondent is currently under our August 21, 2003, order of suspension, we will deem the respondent's suspension to have commenced on that date. The respondent is instructed to maintain compliance with the directives set forth in our prior order. The respondent is also instructed to notify the Board of any further disciplinary action against him.

After the 6-month suspension period expires, the respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS. See 8 C.F.R. §§ 1003.107(a), (b).

  
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FOR THE BOARD