

Falls Church, Virginia 22041

File: D2010-144

Date: = SEP 2 2010

In re: SAMSON MPARAGANDA, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

MOTION

ON BEHALF OF EOIR: Jennifer J. Barnes, Disciplinary Counsel

ON BEHALF OF DHS: Eileen M. Connolly, Deputy Chief

The respondent's request for reinstatement to practice, 8 C.F.R. § 1003.107, will be granted.

On April 2, 2010, the Supreme Judicial Court for Suffolk County, Massachusetts, suspended the respondent from the practice of law for three months. Consequently, on June 15, 2010, the Disciplinary Counsel for the Executive Office for Immigration Review petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. The Department of Homeland Security (the "DHS") then asked that the respondent be similarly suspended from practice before that agency.

Therefore, on June 28, 2010, the Board suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. The respondent did not 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 August 11, 2010, the Board issued a final order, suspending the respondent for three months, effective June 28, 2010.

The respondent on August 16, 2010, filed an "Emergency Motion to Set Aside Default Order and Request for Reinstatement." The respondent presents evidence that he was reinstated to practice law in Massachusetts, as of August 4, 2010. The respondent argues that he did not deliberately fail to file a timely answer to the allegations contained in the Notice of Intent to Discipline, but was out of the country. The respondent seeks to have the Board set aside its August 11, 2010, final order of discipline, as "sustaining the order" will cause him financial hardship. The respondent also argues that he should be reinstated to practice.

Although the respondent has captioned his pleading, in part, as a motion to set aside the August 11, 2010, default order, he does not appear to wish to dispute the charges in the Notice of Intent to Discipline. Rather, the respondent's objective is clearly to be reinstated to practice before the Board, DHS, and Immigration Courts as soon as possible. As the EOIR Disciplinary Counsel argues, setting aside the default order in this case will only "prolong [the] respondent's disciplinary case", EOIR Response, at ¶ 8.

Rather, the Board considers that the EOIR Disciplinary Counsel does not oppose the petition for reinstatement. The EOIR Disciplinary Counsel argues that the Board should “amend its final order to reflect a three month period of suspension, effective nunc pro tunc to April 2, 2010, the effective date of the Massachusetts order, which would allow [the] respondent to be eligible to be reinstated as of July 2, 2010” EOIR Response, at ¶ 9. The EOIR Disciplinary Counsel requests this amendment, because the respondent apparently has not practiced law since April 2, 2010. *Id.*

The EOIR Disciplinary Counsel observes that, as the respondent has presented evidence that he has been reinstated to the practice of law in Massachusetts, it does not object to his immediate reinstatement to practice, and notes that the respondent made a good faith effort to notify it of his suspension under 8 C.F.R. § 1003.103(c). The respondent will be reinstated to practice.

ORDER: The Board’s August 11, 2010, final order in this case is amended to reflect that such order is effective nunc pro tunc to April 2, 2010.

FURTHER ORDER: The respondent’s motion to set aside the Board’s August 11, 2010, final order is denied.

FURTHER ORDER: The respondent is reinstated to practice before the Board, the Immigration Courts, and the DHS, as of the date of this order.

FURTHER ORDER: Because the respondent has been reinstated, public notices regarding the respondent’s suspension should reflect this reinstatement.

FURTHER ORDER: If the respondent wishes to represent a party before the DHS or Board, he must file a Notice of Appearance (Form G-28 or Form EOIR-27), including any case in which he was formerly counsel, prior to his suspension.



FOR THE BOARD