

Falls Church, Virginia 22041

File: D2000-018

Date: AUG 1 2003

In re: DAVID SMITH NUNES, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

MOTION

ON BEHALF OF GENERAL COUNSEL: Jennifer Barnes, Esquire

ON BEHALF OF DHS: Barry O'Melinn, Appellate Counsel

ORDER:

PER CURIAM. On April 29, 1999, the Supreme Court of Florida suspended the respondent from the practice of law in that state for a period of 3 years and indefinitely thereafter.

Consequently, on August 18, 2000, the Office of General Counsel for the Executive Office for Immigration Review initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On August 24, 2000, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) moved to join that petition and asked that the respondent be similarly suspended from practice before that agency. Accordingly, on September 15, 2000, we suspended the respondent from practice before the Board, the Immigration Courts, and the DHS, pending final disposition of disciplinary proceedings.

The respondent requested a hearing on the matter before an Immigration Judge. On July 23, 2001, the parties entered into a consent order whereby the respondent accepted a 3-year suspension from practice before the Board, the Immigration Courts, and the DHS, effective *nunc pro tunc* to April 29, 1999. The respondent acknowledged that he would not be eligible for reinstatement unless and until he could meet the definition of attorney, now at 8 C.F.R. § 1001.1(f).

The respondent moves that we reinstate him to practice before the Board, the Immigration Courts, and the DHS. The respondent asserts that he has been reinstated to practice in Florida, as evidenced by a June 26, 2003, order of the Supreme Court of Florida. The Office of General Counsel for the Executive Office for Immigration Review, who initiated these disciplinary proceedings, does not oppose the motion and notes that the respondent appears to meet the definition of attorney as provided in 8 C.F.R. § 1001.1(f). Given that the respondent has been reinstated to practice law in Florida, and his motion is unopposed, we find that the respondent should be and hereby is reinstated to practice before the Board, the Immigration Courts, and the DHS, as of the date of this order. Because the respondent has been reinstated, public notices regarding the respondent's suspension by the Board should be withdrawn. If the respondent wishes to represent a party before the Board, he must file a Notice of Appearance (Form EOIR-27), including any case in which he was

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formerly counsel, prior to his suspension.



FOR THE BOARD