

Falls Church, Virginia 22041

File: D2003-124

Date: MAR 19 2004

In re: JOHN KIRBY VAWTER, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

MOTION

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. We issued a final order of discipline on October 9, 2003, suspending the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 6 months.

The respondent moves that we reinstate him to practice before the Board, the Immigration Courts, and the DHS. The respondent asserts that he is a member in good standing of the California bar. 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's 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Because the respondent has been reinstated, public notices regarding the respondent's suspension by the Board should be withdrawn.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 formerly counsel, prior to his suspension.



FOR THE BOARD