

Falls Church, Virginia 22041

File: D2010-311

Date:

In re: YAN WANG, ATTORNEY

AUG 11 2011

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

MOTION

ON BEHALF OF EOIR: Scott Anderson, Deputy Disciplinary Counsel

ON BEHALF OF DHS: Eileen M. Connolly
Chief, Immigration Court Practice Section - East

ON BEHALF OF RESPONDENT: Richard M. Maltz, Esquire

The respondent's opposed request for reinstatement to practice will be granted.

On April 2, 2008, the United States Court of Appeals for the Second Circuit referred the respondent for a disciplinary investigation. The Second Circuit's Committee on Admissions and Grievances in July, 2009, issued a report and recommendation, recommending that the respondent be suspended for six months. On July 19, 2010, the Second Circuit found that the respondent's "resignation is in the interests of justice," and accepted the respondent's resignation from the bar of that court while its disciplinary proceedings were pending.

On November 30, 2010, the EOIR Disciplinary Counsel 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. The respondent opposed the request for an immediate suspension order. On January 4, 2011, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

On January 20, 2011, the parties filed a "Joint Motion To Approve Settlement Agreement." The Board approved the settlement agreement on January 26, 2011, and suspended the respondent from practice before the Board, the Immigration Courts, and the DHS, for six months, effective January 4, 2011.

The respondent moves that the Board reinstate her to practice, as the suspension period has expired. She presents evidence that she is authorized to practice law in New York. A regulation, 8 C.F.R. § 1003.107(a), states that

Upon notice to the Board, a practitioner who has been suspended will be reinstated to practice before the Board and the Immigration Courts or the [DHS], or before all three authorities, once the period of suspension has expired, provided that he or she meets the definition of attorney or representative as set forth in § 1001.1(f) and (j), respectively, of this chapter.

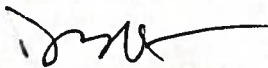
Matter of Krivonos, 24 I&N Dec. 292, 293 (BIA 2007). The regulation, 8 C.F.R. § 1001.1(f), defines as an attorney a person who is eligible to practice law in and is a member in good standing of a bar who “is not under any order suspending, enjoining, restraining, disbaring or otherwise restricting [her] in the practice of law.” The EOIR Disciplinary Counsel contends that the respondent, having resigned from the bar of the Second Circuit while disciplinary proceedings were pending, is restricted in the practice of law before the Second Circuit.

The Board has considered the entirety of the particular circumstances in this matter, including the settlement agreement reached by the parties, the fact that the respondent has effectively received the discipline recommended by the Second Circuit’s Committee on Admissions and Grievances, including that she participate in legal education classes as a part of any sanction, and the fact that the respondent states firmly that she intends not to practice again before the Second Circuit and therefore does not wish to seek reinstatement to that court. Given the totality of the facts presented, the Board finds it appropriate to determine that the respondent meets the definition of attorney under 8 C.F.R. § 1001.1(f), and will reinstate the respondent.

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, she must file a Notice of Appearance (Form G-28 or Form EOIR-27), including any case in which she was formerly counsel, prior to her suspension.



FOR THE BOARD