

Falls Church, Virginia 22041

File: D2011-035

Date:

JUL 7 2011

In re: ALFONSO S. CABRAL, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF DHS: Rachel A. McCarthy, Disciplinary Counsel

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

The respondent will be suspended from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS"), for three years.

On February 3, 2011, a Hearing Board for the Office of the Presiding Disciplinary Judge, Supreme Court of Colorado, suspended the respondent from the practice of law for three years. On March 7, 2011, the Hearing Board denied the respondent's request for a stay pending appeal. On April 5, 2011, the Office of the Presiding Disciplinary Judge, Supreme Court of Colorado entered an "Order and Notice of Suspension". That order noted that the Supreme Court of Colorado had, on March 28, 2011, denied the respondent's motion for a stay pending appeal. The "Order and Notice of Suspension" further ordered that the respondent "is suspended from the practice of law for a period of three years, effective immediately and his name shall be stricken from the list of attorneys authorized to practice in the state of Colorado."

Consequently, on April 8, 2011, the DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. The Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) has asked that the respondent be similarly suspended from practice before EOIR, including the Board and Immigration Courts. Therefore, on April 21, 2011, 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. 8 C.F.R. §§ 1003.105(c)(1); 1292.3(e)(3)(ii). The respondent's failure to file a response within the time period prescribed in the Notice constitutes an admission of the allegations therein, and the respondent is now precluded from requesting a hearing on the matter. 8 C.F.R. § 1292.3(e)(3)(ii).

The Notice of Intent to Discipline proposes that the respondent be expelled from practice before the DHS. The Disciplinary Counsel for EOIR asks that we extend that discipline to practice before the Board and Immigration Courts as well. As the respondent failed to file a timely answer, the regulations direct us to adopt the proposed sanction contained in the Notice, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. §§ 1003.105(d)(2); 1292.3(e)(3)(ii).

The Notice of Intent to Discipline argues that “. . . given that the professional misconduct that resulted in [the respondent’s] suspension in the State of Colorado is related to his immigration law practice, the appropriate discipline in this matter is expulsion.” Notice of Intent to Discipline, at ¶ 8. The Board finds, however, that expulsion from practice would be “unwarranted or not in the interests of justice.” 8 C.F.R. § 1003.105(d)(2).

That is, the March 7, 2011, order denying a stay indicated that the respondent struggles to handle his docket appropriately, and that immigration matters “compromise his entire practice.” The respondent’s suspension from practice in Colorado did not, however, directly involve immigration matters.

The Colorado suspension resulted from actions taken in three client matters, involving neglect, failure to communicate, and engaging in conduct that prejudiced the administration of justice. See February 3, 2011, “Decision and Order Imposing Sanctions”, Hearing Board for the Office of the Presiding Disciplinary Judge, Supreme Court of Colorado, at 1. The “Alvarez Matter” involved a client served with a complaint by a bonds person, who alleged breach of contract and unjust enrichment, based on a claimed default on a promissory note. The note had allegedly become due as a result of Alvarez’ son failing to appear in a criminal matter. *Id.* at 2-5. The “Michel Matter” involved a client convicted of several crimes, who sought the respondent’s help concerning a pre-sentence report. *Id.* at 5-6. The “Loera Matter” involved a child support issue. *Id.* at 6-8.

The respondent therefore will be suspended from practice before the Board, the Immigration Courts, and the DHS, for three years, consistent with his suspension in Colorado. As the respondent is currently under our April 21, 2011, order of suspension, we will deem the respondent’s suspension to have commenced on that date.

ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for three years.

FURTHER ORDER: 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.

FURTHER ORDER: The respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS under 8 C.F.R. § 1003.107.

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today’s order of the Board becomes effective immediately. See 8 C.F.R. § 1003.105(d)(2)(2010); *Matter of Kronegold*, 25 I&N Dec. 157, 163 (BIA 2010).



FOR THE BOARD