

Falls Church, Virginia 22041

File: D2010-054

Date:

APR 21 2010

In re: RICHARD D. GARCIA, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

The respondent will be suspended from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS"), for 30 days, effective April 30, 2010.

On February 3, 2010, the respondent was suspended from the practice of law for 6 months, stayed, with an actual suspension of 30 days, and probation for 2 years, by the Supreme Court of Colorado, effective April 30, 2010. In a February 1, 2010, stipulation, the respondent admitted that this Board had reopened an immigration case where the parties were represented by Garcia, based on Garcia's deficient performance. The respondent admitted that he had engaged in conduct constituting grounds for the imposition of discipline.

Consequently, on March 23, 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, and submitted a Notice of Intent to Discipline. The DHS has filed a "Motion for Reciprocal Discipline", in which it requests that any discipline that restricts the authority of the respondent to practice before the Board or Immigration Courts also apply to the respondent's authority to practice before the DHS.

The respondent submitted an "Answer to Petition for Immediate Suspension" on March 30, 2010. The Board will construe the filing as a timely answer to the allegations contained in the Notice of Intent to Discipline. *See* 8 C.F.R. § 1003.105(c)(1).

The respondent does not dispute the allegations in the Notice of Intent to Discipline, and does not seek a hearing. We therefore find it appropriate to issue a final order on the government's charges. 8 C.F.R. § 1003.106(a)(2010); 73 Fed. Reg. 76914, 76925 (December 18, 2008); EOIR Disciplinary Counsel's "Motion To Withdraw Petition For Immediate Suspension And For Summary Adjudication", at ¶ 3 (in summary disciplinary proceedings, Board may issue a final order when the respondent's answer does not make a prima facie showing that there are any material issues of fact in dispute). As there is no material issue of fact in dispute, and as the Disciplinary Counsel's proposed sanction of 30 days is appropriate, in light of the respondent's suspension in Colorado, the Board will honor that proposal.¹

¹ The Disciplinary Counsel's April 1, 2010, "Motion To Withdraw Petition For Immediate Suspension And For Summary Adjudication", seeks to withdraw its petition for the respondent's immediate suspension from practice. The request will be granted.

Further, after consideration of the respondent's answer, as well as the government's filings, the Board will deem the suspension to commence on April 30, 2010, the effective date of the respondent's suspension in Colorado.

ORDER: The Disciplinary Counsel's "Motion To Withdraw Petition For Immediate Suspension And For Summary Adjudication", is granted.

FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for 30 days, effective April 30, 2010.

FURTHER ORDER: The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been suspended from practicing before these bodies.

FURTHER ORDER: The respondent shall maintain records to evidence compliance with this order.

FURTHER ORDER: The Board directs that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS.

FURTHER ORDER: The respondent is 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(b).



FOR THE BOARD