

Falls Church, Virginia 22041

File: D2013-037

Date: **MAY 15 2013**

In re: VICENTA E. MONTOYA

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

ON BEHALF OF DHS: Diane H. Kier
Associate Legal Advisor

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

On December 7, 2012, the respondent was suspended from the practice of law for 5 years by the Supreme Court of the State of Nevada. Consequently, on March 20, 2013, 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. The DHS then asked that the respondent be similarly suspended from practice before that agency. Therefore, on April 11, 2013, the Board 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 but has failed to do so. *See* 8 C.F.R. § 1003.105 (2012); 77 Fed. Reg. 2011, 2014-15 (Jan. 13, 2012); *see also* 78 Fed. Reg. 24669 (April 26, 2013). 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. § 1003.105 (2012); 77 Fed. Reg. 2011, 2014-15 (Jan. 13, 2012); *see also* 78 Fed. Reg. 24669 (April 26, 2013).

The Notice proposes that the respondent be indefinitely suspended from practicing before the Board and the Immigration Courts. Because the respondent has failed to file an answer, the regulations direct the Board 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 (2012); 77 Fed. Reg. 2011, 2014-15 (Jan. 13, 2012); *see also* 78 Fed. Reg. 24669 (April 26, 2013).

Since the proposed sanction is appropriate, in light of the respondent's suspension from the practice of law by the Supreme Court of the State of Nevada and the Review Department of the State Bar Court of California, the Board will honor that proposal. As the respondent is currently under our April 11, 2013, order of suspension, we will deem the respondent's suspension to have commenced on that date.

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

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(2012). See 77 Fed. Reg. 2011, 2015 (Jan. 13, 2012); see also 78 Fed. Reg. 24669 (April 26, 2013).

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. 8 C.F.R. § 1003.105(d)(2)(2012). See 77 Fed. Reg. 2011, 2015 (Jan. 13, 2012); see also 78 Fed. Reg. 24669 (April 26, 2013).

A handwritten signature in black ink, appearing to be 'DM', is written above a horizontal line.

FOR THE BOARD