UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT

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15 APR 23 PM 3:16

In the Matter of:

Jasmin Veronica Miller,

Respondent.

DISCIPLINARY CASE # D 2013040

ON BEHALF OF RESPONDENT:
Pro se
P.O. Box 1505
Boaz, AL 35957

ON BEHALF OF THE GOVERNMENT:
Jennifer J. Barnes, Disciplinary Counsel
Paul A. Rodrigues, Associate General Counsel
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 20530

Diane H. Kier, Associate Legal Advisor
U.S. Department of Homeland Security
U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
500 12th St., S.W.
Washington, DC 20536

ORDER OF THE IMMIGRATION JUDGE

IT IS HEREBY ORDERED that:

[x] 1. The ground under 8 C.F.R. § 1003.102(c) set forth in the Notice of Intent to Discipline has not been established by clear and convincing evidence and is, hereby, dismissed.

[x] 2. The grounds under 8 C.F.R. §§ 1003.102(j), (l), (n), (o) and(q) set forth in the Notice of Intent to Discipline have been established by clear and convincing evidence.

The following disciplinary sanction shall be imposed:

[ ] Practitioner shall be permanently expelled from practice before:
- [ ] The Board of Immigration Appeals and the Immigration Courts
- [ ] The Department of Homeland Security
- [ ] Both

[x] Practitioner shall be suspended from practice before:
[ ] The Board of Immigration Appeals and the Immigration Courts
[ ] The Department of Homeland Security
[x] Both
Until: 18 months have elapsed from the date of this decision.

[ ] Practitioner shall be publically/privately censured

[ ] Other appropriate disciplinary sanction

Date: 4/23/15

Brett M Parchert
Adjudicating Official - Immigration Judge

APPEAL: RESERVED for all parties
APPEAL DUE BY: May 22, 2015
EOIR 45

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: **MAIL** (M) PERSONAL SERVICE (P)

TO: [✓] PRACTITIONER [ ] PRACTITIONER'S ATT/REP [✓] DHS/EOIR

DATE: 4/23/15 BY: COURT STAFF

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT

In the Matter of:	
Jasmine Veronica Miller,	**DISCIPLINARY CASE # D 2014-040**
Respondent.	

CHARGES: 8 C.F.R. §§ 1003.102 (c), (j), (l), (n), (o), and (q)

PROSOSED DISCIPLINE: Suspension from practice before the Board of Immigration Appeals (Board) and Immigration Courts for a period of one year

ON BEHALF OF RESPONDENT:
Pro se
Jasmine Miller, Esquire
P.O. Box 1505
Boaz, AL 35957

ON BEHALF OF THE GOVERNMENT:
Jennifer J. Barnes, Disciplinary Counsel
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MEMORANDUM OF DECISION AND ORDER

I. PROCEDURAL HISTORY

On August 29, 2014, the Disciplinary Counsel of the Office of the General Counsel for the Executive Office for Immigration Review (Disciplinary Counsel) filed a Notice of Intent to Discipline (NID) Jasmine Miller (Respondent) with the Board pursuant to 8 C.F.R. § 1003.102(e)(1) and 8 C.F.R. § 1003.103(b).[1] Exhibit 1.[2] In the NID, Disciplinary

[1] On September 17, 2014, the Department of Homeland Security (DHS) filed a motion for reciprocal discipline, requesting that any discipline imposed on Respondent which restricts her authority to practice before the Board or Immigration Courts also apply to her authority to practice before the DHS. *See* Exhibit 3.

[2] The Court will give the documents the following exhibit numbers: (1) Notice of Intent to Discipline and Accompanying Documents; (2) DHS Motion for Reciprocal Discipline; (3) Respondent's Appellate Response; (4) Disciplinary Counsel's Motion for Default Order; (5) BIA Order dated October 21, 2014; (6) Disciplinary Counsel's Motion to Reconsider; (7) BIA Order dated October 30, 2014; (8) Disciplinary

Counsel charges Respondent with professional misconduct consisting of violations of six subsections of 8 C.F.R. § 1003.102. Specifically, Disciplinary Counsel alleges that Respondent:

102(c): knowingly made a false statement of material fact;
102(j): engaged in frivolous behavior in proceedings;
102(l): repeatedly failed to attend hearing in a timely manner without good cause;
102(n): engaged in conduct prejudicial to the administration of justice;
102(o): failed to provide competent representation in cases in which she acted in a representative capacity; and
102(q): failing to act with reasonable diligence and promptness in representing certain clients.

In response to the allegations Respondent submitted a 2-page written statement and a difficult-to-read photocopy of an "Acknowledgement of Receipt of Notice of Privacy Practices" from the Shands HealthCare/University of Florida Health Science Center.

The Board twice rebuffed the Disciplinary Counsel's request for a default order to impose the proposed discipline and, instead, ordered that the matter be referred to an Adjudicating Officer. The undersigned, as the designated Adjudicating Official, scheduled two telephonic conferences. During the first, held on January 29, 2015, Respondent stated she was unaware that she had a right to obtain counsel to represent her in these Disciplinary Proceedings. Although the Disciplinary Counsel correctly pointed out that both the NID itself and the regulations state that she does, thus putting Respondent on notice, the Court nevertheless granted her a brief continuance, in addition to the months she had already had, to try to secure her own counsel if she so desired. The Court also encouraged Respondent to gather any additional documents she may wish to submit in her defense, including medical records. At the conclusion of the hearing, the parties agreed to hold another telephonic conference on February 20, 2015. On that date, Disciplinary Counsel appeared telephonically, but Respondent did not, and instead had her adult son, Joseph Miller, inform the Court that she was too ill to come to the telephone.[3]

On February 26, 2015, the Court instructed the parties in a written order that any additional documents or responses must be received no later than March 23, 2015. Disciplinary Counsel responded with a brief and a compact computer disc of exhibits, followed by a hard-copy of the contents of the disc. Respondent has made no objection to these documents, the contents of which the Court finds to be reliable and probative, and the Court has marked them as Exhibits 8 and 9. Respondent has submitted no documents, apart from the aforementioned acknowledgement of medical privacy rights document.

Counsel's Brief dated March 13, 2015 (with accompanying compact computer disc); (9) Hard copy of computer disc contents.

[3] The Court considers Respondent to have waived her right to counsel.

II. LAW AND ANALYSIS

It is Disciplinary Counsel's burden to prove the grounds for disciplinary sanctions by clear and convincing evidence. 8 C.F.R. § 1003.106(a)(iv). The Court will only impose disciplinary sanctions against a practitioner if it finds it to be in the public interest to do so. 8 C.F.R. § 1003.101(a). Disciplinary sanctions are deemed to be in the public interest if Disciplinary Counsel establishes that the practitioner falls within any of the enumerated categories in 8 C.F.R. § 1003.102. If the Court determines that Disciplinary Counsel has met its burden, it must sustain the charge and decide on a form of punishment, which can be expulsion, suspension, public or private censure, or other sanctions deemed appropriate. 8 C.F.R. §§ 1003.101(a)(1)-(4). Any grounds for discipline set forth in the NID that have not been established by clear and convincing evidence shall be dismissed. 8 C.F.R. § 1003.106(b).

The record is clear that, on numerous occasions and in the numerous cases, Respondent failed to appear at her client's Immigration Court hearings (Maria Antonio Jose, A205 105 929; Zoila Mendez Mendoza, A205 096 338; Jesus David Avila Sanchez, A205 202 019; Lucia Alvarez-Primero, A200 005 352; Martin Miguel-Pedro, A076 723 400; Alejandro Rebolledo Ramirez, A205 358 375; Abelino Hernandez Cruz, A205 102 543; Othoniel Zarco Caracas, A200 754 056; and Florencio Velasquez Gomez, 089 966 027). At times Respondent would simply file "emergency" motions to continue shortly before the hearings and then not appear; other times, she did not even file emergency motions and she merely failed to appear. Judges repeatedly told Respondent to document the reasons for her continuance requests, but she did not.

From a review of the transcripts, it is clear that Respondent's failure to appear caused her clients financial and emotional distress and left them at times confused about why she was not present and whether she actually was going to represent them. At other times, the reasons given in Respondent's emergency motions for not appearing did not match her clients' understanding of why she did not appear. It is evident that the judges involved displayed an admirable amount of patience in granting continuance after continuance so that either Respondent could appear or for her clients to try to obtain new counsel. In at least one case, however, a judge had reached his limit in dealing with Respondent's absences and essentially deemed the alien to be abandoned of representation. The judge completed the case that day, which resulted in a denial of an application for relief (David Avila Sanchez, A205 202 019). In instances where Respondent did appear, she sometimes did not have a required application ready to submit at a master calendar setting.

It is axiomatic that an attorney must actually appear at a client's hearings to represent him or her diligently and competently. Plainly, Respondent repeatedly failed to appear for court hearings without documented good cause and she thus failed diligently and competently to represent her clients. Respondent's repeated failures to appear and her last-minute "emergency continuance" requests also are prejudicial to the administration of justice and such actions undermine the integrity of the entire adjudicative process. Importantly, an attorney's presence is not excused unless a motion for a continuance has actually been granted. It is well known that the Immigration Courts nationwide have extremely heavy caseloads, with some aliens' cases languishing for years before they can have a hearing on the merits of their applications. An

attorney's failure to appear, especially for an individual calendar hearing, simply adds to the crushing court burden. A client whose attorney does not appear may have to wait many additional years to have his or her case resolved. In addition, this causes the court to have a "wasted" hearing slot in which someone else could have had his or her day in court. That Respondent failed to appear repeatedly, at least 11 reported times, is shocking and displays a significant lack of respect and regard for her clients in the proceedings, the DHS as opposing counsel, and the Immigration Courts as a whole.

Based on the record and the foregoing discussion, the Court finds the Disciplinary Counsel has established by clear and convincing evidence that charges under section 8 C.F.R. §§ 1003.102(1), (n), (o), and (q) are sustained.

The Court will next address the charges under sections 1003.102 (c) (false statement) and (j) (frivolous behavior). Disciplinary Counsel argues that the violation of these sections center on representations Respondent made in the case of Othoniel Zarco Caracas, *et al.* (A200 754 056 *et al.*). On April 23, 2014, Respondent filed an "Emergency Motion for Continuance", for an April 24, 2014 hearing, stating that her clients were "IN AGREEMENT" to attend the final hearing "UNTIL APRIL 20, 2014," which is when the male client informed Respondent about his "WIFE'S C SECTION DELIVERY."[4] Respondent further stated, and as apparent separate points, that her clients sought "FORGIVENESS" and were "ASKING FOR HELP."

In defense of these charges, Respondent merely states, "I AM NOT A LIAR" and she alleges that she could not have made up "THE FACT THAT OTHONIEL CARACAS [sic] WIFE HAD A C SECTION." *See* Exhibit 3. Disciplinary Counsel argues that the falsity involved is not whether Mr. Zarco Caracas's wife had a C-section, but in Respondent's assertion that her clients would not be attending their merits hearing. *See* Disciplinary Counsel's Brief in Support of Charges, at 31 (Exhibit 8).

It is rather odd that the clients *did* appear for their hearing considering the dire circumstances alleged in Respondent's Emergency Motion to Continue, which the judge had not received and reviewed prior to the hearing. *See* Exhibit 9 at 293. Indeed, there is no mention from Mr. Zarco Caracas and Ms. De Los Angeles Mendoza of a recent C-section. They did say, however, that they were waiting for Respondent to appear, did not know where she was despite trying to call her, and that she had failed to return their telephone calls. They also stated that the last time they heard from Respondent she stated that she "most probably was not going to continue with our case." *Id.* at 339-40.

It is a violation of the regulations if a practitioner "[k]nowingly or with reckless disregard makes a false statement of material fact or law, or willfully misleads, misinforms, threatens, or deceives any person (including a party to the case or an officer or employee of the Department of Justice), concerning any material and relevant matter[.]" 8 C.F.R. § 1003.102(c).

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[4] For reasons unknown, the entirety of the text of such motion, and apparently every other court filing, was submitted in all capital letters.

In this case, Respondent did not clearly and explicitly state in the motion that her clients would not be appearing for the hearing. This could be because she was unsure if they would appear, or it may have simply been a consequence of filing vague and unprofessional-looking written submissions to the court in general. It thus would appear that the purported false statements were made telephonically to court staff. In particular, Judge Kevin Mart relates in an e-mail communication with Disciplinary Counsel that Respondent called court staff and stated that her clients would not be attending because of the female client's recent C-section procedure. Exhibit 9 at 292. Even if a false statement were not made in court or in a court filing, a practitioner could nevertheless face discipline for knowingly or with reckless disregard making a false statement to an employee of the Department of Justice, which clearly encompasses Immigration Court staff. In this case, the Court believes there is not an insignificant possibility that Respondent lied to court personnel, intentionally or recklessly, about whether her clients were going to appear for their hearing. However, the standard is one of clear and convincing evidence. The primary evidence here is an email from the Immigration Judge about his understanding of what a court clerk told him. This hearsay evidence may be accurate, but more persuasive would be a written statement from the court personnel who personally spoke to Respondent. There has been no showing that such employee or employees were unable or unavailable to present written statements. This incident is the only incident alleged to support discipline under subsection (c). **Considering the evidence submitted, the Court finds that the charge under subsection (c) has not been sustained by clear and convincing evidence.**

The remaining charge relates to engaging in "frivolous behavior" in a proceeding before the Immigration Court under 8 C.F.R. § 1003.102(j). Disciplinary Counsel argues that because Respondent made a false statement in the Zarco-Caracas/De Los Angeles Mendoza motion to continue, discussed above, that she necessarily also engaged in frivolous behavior. As described previously, the Court does not find that it has been shown by clear and convincing evidence that Respondent made a false statement. However, the Court finds that frivolous behavior encompasses more than false statements.

A practitioner engages in frivolous behavior when he or she knows or reasonably should have known that his or her actions lack an arguable basis in fact or law or are taken for an improper purpose, such as to harass or cause unnecessary delay. A fair reading of the transcript of the Zarco Caracas/De Los Angeles Mendoza April 24, 2014 hearing suggests that Judge Mart found Mr. Zarco Caracas's description of his interactions with Respondent to have been credible. Indeed, there would seem to have been little desire on their part to delay their hearing since they appeared and were ready to proceed, and indicated they were waiting for Respondent who was not returning their calls and who had expressed a belief to them that she would not continue with the case. Notably, Respondent still did not appear for the next hearing, on June 24, 2014, despite not having been granted permission to withdraw from the case.

Even if Respondent has not been shown to have submitted a false statement, the Court does find by clear and convincing evidence that she engaged in frivolous behavior in the Zarco Caracas/De Los Angeles Mendoza case by submitting an untimely "emergency" motion to continue that she reasonably should have known lacked a basis in fact. The implication, if not the actual precise words, of the motion is that her clients would not be able to appear for the hearing because the female client had significant complications from a recent C-section.

It is unclear when the emergency motion to continue was drafted because it was not dated, which is itself evidence of incompetent behavior. One can surmise that it was still in Respondent's possession on the "22ND DAYS [sic] OF APRIL 2014" because that is when she personally completed the certificate of service. Mr. Zarco Caracas stated at his April 24, 2014 hearing that he had last heard from Respondent on "Monday" which would have been April 21, 2014. Obviously, on April 22nd, when Respondent completed the certificate of service, she should have known after a reasonable discussion with her clients, that they were able and willing to attend the hearing. For Respondent to imply that her clients would not be able to attend the hearing was frivolous under the regulations.

Indeed, her statement that she was unaware of the purported C-section until April 20, 2014, is unlikely to be accurate. This is because it appears that Respondent had Mr. Zarco Caracas have an affidavit executed on April 19, 2014, stating that his spouse had a C-section and the stress from it had caused him not to pay his attorney's wages, among other things. It is highly doubtful that Mr. Zarco Caracas, on his own volition, thought to execute an affidavit referencing his attorney's wages and then decided randomly to send it to his attorney. It is almost as if the clients themselves did not consider the C-section, which allegedly occurred several weeks prior, to be something that would interfere with attending court but instead was an excuse concocted by Respondent to get out of appearing for the case.[5] As noted above, Respondent also failed to attend the next hearing. **In light of the foregoing the Court finds that the charge under subsection (j) has been sustained by clear and convincing evidence.**

III. DISCIPLINARY SANCTIONS

If the Court finds that one or more of the grounds for disciplinary action enumerated in the NID have been established by clear and convincing evidence, it shall rule that the disciplinary sanctions set forth in the NID be adopted, modified, or otherwise amended. *See* 8 C.F.R. § 1003.106(b). The Court may impose the following penalties: (i) permanent expulsion; (ii) suspension, including immediate suspension; (iii) public or private censure; or (iv) such other disciplinary sanctions as the Court deems appropriate. *See* 8 C.F.R. §§ 1003.101(a)(1)-(4). According to the American Bar Association's Standards for Imposing Lawyer Sanctions (ABA Standards), "[a]fter misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanction to impose." ABA Standards at 9.0.[6] Though such standards are not binding, the Court finds them instructive.

a. Aggravating Factors

The ABA Standards state that "aggravating circumstances are any considerations or factors that may justify an increase in the degree of discipline to be imposed." *Id.* at 9.21. The

[5] The Court does not consider the affidavit as proof of the female client's C-section. The best evidence would, of course, be actual medical documentation from Ms. De Los Angeles Mendoza. Respondent never did submit such evidence in her defense.

[6] The ABA Standards are more formally cited as Joint Committee on Professional Sanctions, Standards for Imposing Lawyer Sanctions, available at: http://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/corrected_standards_sanctions_may2012_wfootnotes.authcheckdam.pdf.

ABA Standards set forth a list of aggravating factors, and the following factors are a portion of that list most applicable to the case as hand: (1) a pattern of misconduct; (2) multiple offenses; and (3) substantial experience in the practice of law. *Id.* at 9.22.

The Court finds as an aggravating factor that Respondent is subject to discipline under multiple sections of the applicable regulations. In addition, her incidents of misconduct involved multiple clients, at least one of whom had to proceed on his own on the day of his final hearing after the judge tired of Respondent's pattern of unexcused non-appearances. This client's (Mr. Sanchez's) application for relief from removal was denied that day. Moreover, Respondent was already on ample notice about her repeated failures to appear in general because she had already been the recipient of two Informal Admonitions about repeated non-appearances, issued by Disciplinary Counsel on March 12, 2012, and April 5, 2012. *See* Exhibit 1. That such behavior continued after multiple prior admonitions is particularly troubling and is a significant aggravating factor.

b. Mitigating Factors

Mitigating circumstances "are any considerations or factors that may justify a reduction in the degree of discipline to be imposed." ABA Standards at 9.31. Factors that apply in the present proceedings, which may be considered in mitigation include: (1) absence of a prior disciplinary record; (2) absence of a dishonest or selfish motive; (3) personal or emotional problems; (4) timely effort to make restitution or to rectify the conduct; (5) full and free disclosure to the disciplinary board or cooperative attitude in the proceedings; and (6) remorse.

Respondent has done exceedingly little in her defense. In her response to the charges she alleged that she provides much assistance *pro bono* and that she has done a "GOOD JOB AS A LITIGAGTOR (sic) FOR THESE CLIENTS." However, no proof of significant *pro bono* work has been submitted as evidence. In addition, Respondent's self-serving statement that she is a good litigator is belied by her repeated failures to appear, lack of preparation, and written submissions devoid of intelligible legal argument or even proper spelling and punctuation.

Respondent makes much of a purported vehicular accident in March of 2011, which occurred after a court hearing she was "forced" to attend after a request for telephonic appearance was denied. She alleges a multitude of serious physical maladies she has endured as a result of the accident. A serious accident resulting in long-lasting physical or emotional injuries may be a mitigating factor. However, not a single shred of evidence of such accident actually having occurred has been submitted, nor is there any evidence of any treatment for significant emotional or physical injuries. The only medical documentation provided is an Acknowledgement of Receipt of Notice of Privacy Practices, apparently dated November 4, 2013. There is no evidence to explain *why* Respondent received a notice relating to medical privacy. Such notices are routinely signed by persons receiving medical treatment and can involve maladies as serious as cancer or as mundane as the common cold. During the January 29, 2015 telephonic conference, Respondent was encouraged to submit such documents, yet none were forthcoming. Ultimately, the Court does not find that Respondent has demonstrated that any personal or emotional problem serves as a mitigating factor in her case.

Respondent has not demonstrated to the Court's satisfaction a cooperative attitude during these proceedings or any remorse for her actions. To begin, she feigned a lack of knowledge that she could be represented by counsel in these proceedings even though she clearly was aware, or should have been, by reading the regulations and the information provided to her by Disciplinary Counsel. Instead, by feigning such lack of knowledge Respondent gave the Court the impression that she was merely attempting to delay resolution of this matter. Similarly, Respondent did not even appear for the second telephonic conference held on February 20, 2015. Instead, Respondent had her adult son answer the telephone and state that she was too ill to get out of bed (even though the Court could discern that she was whispering to her son, although such whisperings were unable to be recorded). Moreover, her response to the allegations displays a certain disdain to these Disciplinary Proceedings in general. Her response suggests that she holds the office of Disciplinary Counsel in poor regard, stating that it is "JEHOVAH GOD WHO WILL JUDGE US AT THE END AND IT IS JEHOVAH GOD WHO WILL DISCIPLINE US IN THE END." Exhibit 3.

Indeed, the Court has been informed by staff at the Office of the Chief Counsel, who is charged with serving orders and notices in this case, that Respondent has failed to pick up mail associated with this case at her mailing address, causing the Post Office to return the certified mail. That address, P.O. Box 1505, Boaz, Alabama 35957, remains her address of record. It is unclear if Respondent is picking up any mail at that address, or whether she is merely not collecting mail associated with this case which originates from the headquarters of the Executive Office for Immigration Review. Her failure to collect her mail, however, does not relieve her of discipline, and instead further demonstrates a lack of cooperation in this process.

With respect to the issue of remorse, Respondent has displayed none. Instead, she references her good skills as a litigator and provider of free legal services to the needy. *See* Exhibit 3. As stated previously, she has proven neither.

c. Sanctions

In the NID, Disciplinary Counsel proposes that pursuant to the relevant ABA standards, Respondent should be suspended from the practice of law in front of the Board and Immigration Courts. Exhibit 1 at 4. Disciplinary Counsel suggests that by applying the appropriate standards Respondent should be suspended from the practice of law for a period of not less than 6 months nor more than 3 years. The Court accepts that this would be the appropriate range and Respondent has not demonstrated that such range would be inappropriate. In the NID, Disciplinary Counsel recommended that Respondent be suspended from the practice of law for 1 year. *Id.* At the conclusion of these proceedings Disciplinary Counsel states that Respondent's misconduct warrants a suspension of "at least" one year. Disciplinary Counsel's Brief in Support of Charges, at 33 (Exhibit 8).

As noted above, the Court has found there to be several aggravating factors in this case, including multiple prior informal admonitions. No mitigating factor has been demonstrated by evidence, and, indeed, the Court has found a general lack of remorse. Respondent has put forth little effort in her own defense in this case and the record demonstrates that she does not adequately provide for the defense of her clients in removal proceedings. The Court is

concerned that Respondent is a danger to the public who uses or may attempt to use her services. She appears to have learned little from past admonitions and has not seemed to take these Disciplinary Proceedings seriously. The Court is greatly concerned that a suspension for the lower end of the appropriate range would not adequately protect the public, and may permit Respondent to continue to act in a manner prejudicial to the administration of justice. There is no evidence that the pattern of misconduct is likely to change. Accordingly, the Court finds that Respondent should be suspended from the practice of law before the Immigration Courts, the Board, and the DHS for a period of 18 months.[7]

Accordingly, the following orders are hereby entered:

IT IS HEREBY ORDERED that the charge under 8 C.F.R. § 1003.102(c) be dismissed.

IT IS FURTHER ORDERED that the charges under 8 C.F.R. §§ 1003.102(j), (l), (n), (o) and (q) be sustained.

IT IS FURTHER ORDERED that Respondent be suspended from the practice of law before the Immigration Courts, the Board of Immigration Appeals, and the Department of Homeland Security for a period of 18 months.

DATE: 4/23/15

Brett M Parchert

Brett M. Parchert
Adjudicating Official/Immigration Judge

[7] The Court hereby grants the DHS's motion for reciprocal discipline.

Files: D2013-382
D2013-511
D2014-040

Date: SEP 17 2015

In re: JASMIN VERONICA MILLER, Attorney

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

APPEAL

ON BEHALF OF EOIR: Jennifer J. Barnes
Disciplinary Counsel

Paul A. Rodrigues
Associate General Counsel

ON BEHALF OF RESPONDENT: Pro se

In an April 23, 2015, decision, an Immigration Judge, acting as the Adjudicating Official in this case, issued a "Decision and Order", in which he suspended attorney Jasmin Veronica Miller from practice before the Immigration Courts, Board of Immigration Appeals, and Department of Homeland Security (the "DHS") for eighteen months. The respondent filed an appeal with the Board. The Disciplinary Counsel for the Executive Office for Immigration Review (EOIR), who initiated these proceedings, filed a brief, while the respondent did not file a brief concerning the decision of the Adjudicating Official. The respondent's appeal will be dismissed.

The Disciplinary Counsel for EOIR initiated these disciplinary proceedings on August 29, 2014, by filing a Notice of Intent to Discipline, and sought to have the respondent suspended from practice before the Board of Immigration Appeals and the Immigration Courts, for one year. The DHS then asked that the respondent be similarly suspended from practice before that agency.

The Notice of Intent to Discipline contended that the respondent is subject to discipline under 8 C.F.R. §§ 1003.102 (c), (j), (l), (n), (o), and (q). The Adjudicating Official sustained all charges except the charge brought under 8 C.F.R. § 1003.102(c). The Adjudicating Official noted that, during the proceedings, the respondent only presented a two-page "Answer" with the Board, as well as an "Acknowledgment of Receipt of Notice of Privacy Practices" from a health care center, despite the fact that the Adjudicating Official gave the respondent time to secure counsel, and present documents and arguments to him (A.O. at 2).

In finding the respondent subject to discipline, as charged, the Adjudicating Official considered a lengthy brief, and exhibits, filed by the EOIR Disciplinary Counsel (A.O. at 2). In reviewing the evidence, the Adjudicating Official determined that the respondent failed to appear at Immigration Court hearings, repeatedly and without good cause, and engaged in frivolous behavior concerning one case (A.O. at 3-6). The Adjudicating Official, after taking into account appropriate factors, found that the respondent should be suspended from practice before the Immigration Courts, Board of Immigration Appeals, and DHS, for eighteen months (A.O. at 8-9).

The Board reviews findings of fact under the "clearly erroneous" standard. 8 C.F.R. §§ 1003.1(d)(3)(i); 1003.106(c). The Board reviews questions of law, discretion, and judgment and all other issues in appeals de novo. *Matter of P. Singh*, 26 I&N Dec. 623, 624 (BIA 2015); 8 C.F.R. §§ 1003.1(d)(3)(ii); 1003.106(c).

As proposed by the EOIR Disciplinary Counsel, the appeal will be summarily dismissed under 8 C.F.R. § 1003.1(d)(2)(i)(A) and 8 C.F.R. § 1003.1(d)(2)(i)(E) (EOIR Disciplinary Counsel Br. at 1-2, 8-9). That is, the respondent's Notice of Appeal does not adequately apprise the Board of a reason underlying a challenge to the Adjudicating Official's decision. *See Matter of Lodge*, 19 I&N Dec. 500 (BIA 1987); *Matter of Valencia*, 19 I&N Dec. 354 (BIA 1986); 8 C.F.R. § 1003.1(d)(2)(i)(A).

The respondent on the Notice of Appeal generally claims that the Adjudicating Official erred in reaching his decision, and asserts that he lacked proof to discipline her, but the respondent does not elaborate on these assertions. The respondent also vaguely claims that she was not able to attend a February 20, 2015, telephonic hearing, due to illness, and presents a letter from her adult son containing similar assertions. She also claims that, in 2011, she was involved in a car accident. The respondent does not explain, however, why she thereafter presented no arguments, or evidence, as to why she should not face discipline by the Adjudicating Official, and similarly does not specifically set out how the Adjudicating Official was allegedly wrong in finding her subject to such discipline in his April 23, 2015, decision (EOIR Disciplinary Counsel Br. at 8-9).

Moreover, the respondent indicated on the Notice of Appeal that she would file a brief or statement in support of the appeal, but did not do so. 8 C.F.R. § 1003.1(d)(2)(i)(E). Thus, the record does not contain any brief or statement from the respondent identifying any specific claimed error in the Adjudicating Official's decision. Moreover, having reviewed the record and the Adjudicating Official's decision, and after considering the EOIR Disciplinary Counsel's brief, we do not find that further consideration of the Adjudicating Official's decision by certification is warranted. Given the foregoing, we conclude that the respondent's appeal should be summarily dismissed pursuant to 8 C.F.R. § 1003.1(d)(2)(i)(A), for failure to adequately specify the reasons for the appeal, and pursuant to 8 C.F.R. § 1003.1(d)(2)(i)(E), for failure to file a brief after indicating on the Notice of Appeal that such a brief or statement would be filed. Accordingly, the appeal will be summarily dismissed.

ORDER: The respondent's appeal is summarily dismissed, and the Adjudicating Official's April 23, 2015, decision is affirmed.

FURTHER ORDER: The respondent is suspended from practice before the Immigration Courts, Board of Immigration Appeals, and DHS, for a period of eighteen months, effective 15 days from this date. 8 C.F.R. § 1003.106(c).

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

FOR THE BOARD