

Falls Church, Virginia 22041

File: D2015-0170

Date:

In re: AMY LOUISE MONKMAN, Attorney

SEP 16 2015

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

PETITION FOR IMMEDIATE SUSPENSION

ON BEHALF OF EOIR: Jennifer J. Barnes
Disciplinary Counsel

ON BEHALF OF DHS: Jeannette V. Dever
Associate Legal Advisor

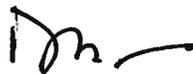
On June 2, 2015, the Supreme Court of Texas accepted the respondent's resignation with disciplinary proceedings pending and prohibited her from the practice of law in that state. Consequently, on August 26, 2015, the Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. The Disciplinary Counsel for the Department of Homeland Security (DHS) then asked that the respondent be similarly suspended from practice before that agency. The petition will be granted.

ORDER: The petition is granted, and the respondent is hereby suspended, absent a showing of good cause, from the practice of law before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. 8 C.F.R. § 1003.103(a) (2013).

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.



FOR THE BOARD

Falls Church, Virginia 22041

File: D2014-214

Date: SEP 16 2015

In re: OLEH R. TUSTANIWSKY, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

MOTION

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

ON BEHALF OF RESPONDENT: Pro se

The respondent, who has been suspended from practice before the Board, the Immigration Courts, and the Department of Homeland Security (the "DHS") for one year, has sought reinstatement to practice. The Disciplinary Counsel for the Executive Office of Immigration Review (EOIR) opposes the respondent's motion for reinstatement, which will be denied.

On July 9, 2014, the United States Court of Appeals for the Second Circuit suspended the respondent from the practice of law before that court for one year. Consequently, the EOIR Disciplinary Counsel 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. We granted the petition on August 14, 2014. Given the respondent's suspension from the practice of law by the Second Circuit, our September 9, 2014, final order of discipline suspended the respondent from practice before the Board, the Immigration Courts, and the DHS, for one year, effective August 14, 2014, the date of our immediate suspension order.

The respondent now asks to be reinstated to practice before the Board, the Immigration Courts and the DHS. He contends that he is authorized to practice law in New York. *See* 8 C.F.R. § 1003.107(a). The EOIR Disciplinary Counsel opposes the respondent's request on the ground that he does not meet the definition of attorney set forth in 8 C.F.R. § 1001.1(f). In particular, the EOIR Disciplinary Counsel points out that the respondent presents no evidence that he has been reinstated to the practice of law by the Second Circuit. Moreover, according to the EOIR Disciplinary Counsel, the respondent in fact has not been granted readmission to the Second Circuit, and remains ineligible to practice before that court.

In response to the EOIR Disciplinary Counsel's opposition, the respondent claims that, on August 28, 2015, he confirmed with the Second Circuit that his suspension by that court had expired. He further contends that he has chosen not to seek readmission to that court because he does not intend to practice before the court. He argues that being admitted to the bar of the Second Circuit is not a prerequisite for practicing before the Board, the Immigration Courts or the DHS, and that the Board, in its final order of suspension, did not state that he had to be readmitted to the Second Circuit before he could be reinstated.

The EOIR Disciplinary Counsel, however, still opposes the respondent's reinstatement. The EOIR Disciplinary Counsel notes that the respondent has not submitted any proof to support his

contention that his suspension in the Second Circuit has expired. Further, the EOIR Disciplinary Counsel states that, even if the respondent's claim is true, he cannot meet the definition of 'attorney' as set forth in 8 C.F.R. § 1001.1(f) because he has not been relieved of the restrictions on his practice before the Second Circuit. In particular, the EOIR Disciplinary Counsel notes that the Second Circuit's suspension order imposed certain conditions that the respondent must complete before he can be reinstated, and the respondent has not established that he has met these conditions. In addition, the respondent has not established that he is unable to request readmission at this time, only that he chooses not to do so.

The EOIR Disciplinary Counsel argues that it is immaterial whether the respondent intends to practice before the Second Circuit in the future. She argues that the respondent remains under a restriction on his practice of law today, unless and until he seeks reinstatement from the Second Circuit. Accordingly, because the respondent has not been granted readmission to the Second Circuit and remains ineligible to practice before that court, he cannot meet the definition of "attorney" set forth in 8 C.F.R. § 1001.1(f), and the EOIR Disciplinary Counsel maintains her opposition to his petition for reinstatement.

The EOIR Disciplinary Counsel is correct that the respondent does not meet the regulatory definition of attorney, due to his continuing restriction from the practice of law by the Second Circuit. 8 C.F.R. § 1001.1(f) (stating that "the term attorney means any person who is eligible to practice law in and is a member in good standing of the bar of the highest court of any state . . . and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law"). Accordingly, we cannot at this time reinstate the respondent to practice before the Board, the Immigration Courts, and the DHS. *See* 8 C.F.R. § 1003.107(a) (stating that, "[i]f a practitioner cannot meet the definition of attorney or representative, the Board shall decline to reinstate the practitioner"). We will, therefore, deny the respondent's motion for reinstatement.

ORDER: The motion for reinstatement is denied.



FOR THE BOARD