

Falls Church, Virginia 22041

File: D2015-0222

Date:

NOV 02 2015

In re: MARIJAN CVJETICANIN, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

ORDER CONCERNING DISCIPLINE

ON BEHALF OF DHS: Catherine M. O'Connell
Disciplinary Counsel

ON BEHALF OF EOIR: Jennifer J. Barnes
Disciplinary Counsel

The respondent will be immediately suspended from practice before the Board, the Immigration Courts, and the Department of Homeland Security (DHS), and further proceedings concerning the government's Notice of Intent to Discipline will be stayed.

On June 29, 2015, in the United States District Court for the District of New Jersey, a jury found the respondent guilty of a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h). That is, the respondent was convicted of nine counts of mail fraud in connection with immigration benefits petitions. Consequently, on September 21, 2015, the Disciplinary Counsel for the DHS petitioned for the respondent's immediate suspension from practice before that agency. 8 C.F.R. § 1003.103(a) (Board shall immediately suspend from practice individual who has been found guilty of a serious crime). The Disciplinary Counsel for the Executive Office of Immigration Review (EOIR) then asked that the respondent be similarly suspended from practice before the Board of Immigration Appeals and the Immigration Courts.

The respondent filed an "Answer to DHS Petition For Immediate Suspension And Notice of Intent to Discipline". In this filing he argues that an immediate suspension order should not issue. In response, the DHS filed a "Motion for Summary Adjudication". Cf. 8 C.F.R. § 1003.103(a)(4) (immediate suspension order may be set aside "[u]pon good cause shown... when it appears in the interest of justice to do so"; *Matter of Rosenberg*, 24 I&N Dec. 744, 745 (BIA 2009). The respondent asserts that his conviction was unlawful and illegal. To support this claim, the respondent provides evidence that he filed a motion for a new trial (Respondent's Answer at Exhs. A, B). However, the criminal court judge denied his request for post-trial relief on August 6, 2015 (DHS Mot., Exh. at 4) ("Here, justice does not require a new trial."). The Board will, therefore, grant the government's request that the respondent be immediately suspended from practice.

The regulations state that attorney discipline proceedings may not be concluded "... until all direct appeals from an underlying criminal conviction shall have been completed." 8 C.F.R. § 1003.103(b). The respondent clearly intends to file a direct appeal of his conviction with the United States Court of Appeals for the Third Circuit (Respondent's Mot. at 3). Proceedings concerning the Notice of Intent to Discipline therefore will be stayed until the time has run for the respondent to file a direct appeal concerning the conviction, or for the conclusion of any direct appeal of the respondent's criminal conviction. The DHS' motion for summary adjudication is therefore denied at this time.

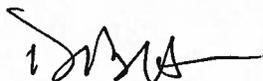
ORDER: The petition for immediate suspension is granted, and the respondent is hereby suspended from the practice of law before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. 8 C.F.R. § 1003.103(a) (2013).

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.

FURTHER ORDER: Proceedings in the case concerning the Notice of Intent to Discipline are stayed.



FOR THE BOARD