

Falls Church, Virginia 22041

File: D2015-0259

Date:

FEB 10 2016

In re: CYRIL OKEY CHUKWURAH, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

ON BEHALF OF RESPONDENT: Pro se

The respondent will be disbarred from the practice of law before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security (DHS).

On August 25, 2015, the District 4 Grievance Committee, Evidentiary Panel 4-6, State Bar of Texas issued a “Judgment of Disbarment”, disbaring the respondent from the practice of law in Texas. The decision found that the respondent failed to promptly deliver funds to an individual, and a hospital, that they were entitled to receive. The decision also found that the respondent had violated disciplinary judgments entered in two other cases. The decision noted that the respondent’s “past disciplinary record was extensive”, the respondent himself had testified that his law office remained open for business during the entire time that the respondent was actively suspended from the practice of law in Texas over the past several years, and the respondent continued to engage in the practice of law while actively suspended.

On December 7, 2015, the Disciplinary Counsel for the Executive Office for Immigration Review filed a Notice of Intent to Discipline.¹ The respondent on December 24, 2015, made a filing with the Board, which we will construe as an answer to the Notice of Intent to Discipline.

Where a respondent is subject to summary disciplinary proceedings based on being disbarred from the practice of law, the regulations provide that the attorney “must make a prima facie showing to the Board in his or her answer that there is a material issue of fact in dispute with regard to the basis for summary disciplinary proceedings, or with one or more of the exceptions set forth in 8 C.F.R. § 1003.103(b)(2)(i) through (iii).” See 8 C.F.R. § 1003.106(a)(2013).

¹ The EOIR Disciplinary Counsel did not petition for the respondent’s immediate suspension from practice pending final disposition of this proceeding, under 8 C.F.R. § 1003.103(a)(2013). The respondent is already under a previous suspension order issued by the Board in 2012.

Where no such showing is made, the Board is to retain jurisdiction over the case, and issue a final order. *Id.*; *Matter of Salomon*, 25 I&N Dec. 559, 560 (BIA 2011); EOIR Disciplinary Counsel “Motion for Summary Adjudication”, at 1. We find it appropriate to issue a final order on the government’s charges.

As to the “exceptions” set forth in 8 C.F.R. § 1003.103(b)(2)(i) through (iii), this provides that a final order of disbarment creates a rebuttable presumption that disciplinary sanctions should follow, and such a presumption can be rebutted only upon a showing, by “clear and convincing evidence”, that the underlying disciplinary proceeding resulted in a deprivation of due process, that there was an infirmity of proof establishing the misconduct, or that discipline would result in grave injustice. These are known as the “*Selling* factors”, announced in *Selling v. Radford*, 243 U.S. 46, 51 (1917). See *Matter of Kronegold*, 25 I&N Dec. 157, 160-61 (BIA 2010).

In considering whether reciprocal discipline is appropriate, the Board conducts a “deferential review” of the underlying proceedings. *Id.* See also *Federal Grievance Committee v. Williams*, 743 F.3d 28, 29 (2d Cir. 2014); *In Re Fallin*, 255 F.3d 195, 197-98 (4th Cir. 2001); *In Re Evans*, 834 F.2d 90, 91 (4th Cir. 1987)(acknowledging that in *Selling v. Radford*, *supra*, the Supreme Court “held that the decision of the highest court of a state, which has disbarred an attorney, will be accorded great deference”).

The respondent has not established that there is a material issue of fact in his case. In particular, the respondent has not made a prima facie showing that there is a material issue of fact regarding the basis of the proceeding (the order of the District 4 Grievance Committee, Evidentiary Panel 4-6, State Bar of Texas), and the respondent has not made a prima facie showing that any of the exceptions to the imposition of disciplinary sanctions exist in his case. See 8 C.F.R. § 1003.103(b)(2)(i) – (iii). Specifically, he has not established, through clear and convincing evidence, that he was deprived of due process during the disciplinary proceeding in Texas, that there was an infirmity of proof in the Texas proceeding, or that the imposition of discipline would result in grave injustice.

The respondent’s disbarment in Texas followed proceedings in which he was provided a hearing before the District 4 Grievance Committee, Evidentiary Panel 4-6, State Bar of Texas, after which the court issued a decision, taking into account his arguments. The respondent’s filing indicates that he has filed an appeal with the Texas Board of Disciplinary Appeals. He does not, however, show that his disbarment has been stayed pending appeal, and he remains disbarred in Texas. EOIR Disciplinary Counsel’s “Motion for Summary Adjudication”, at 1. The respondent broadly argues that his suspension in Texas resulted from racism and abuse of authority. The respondent’s unsupported claims of unfair treatment by the Texas disciplinary authorities are not supported by evidence. EOIR Disciplinary Counsel’s “Motion for Summary Adjudication”, at 2. We agree that disbarment is an appropriate sanction, in light of the respondent’s disbarment in Texas.

Accordingly, we disbar the respondent from practice before the Board, the Immigration Courts, and the DHS.

ORDER: The Board disbars the respondent from practice before the Board, the Immigration Courts, and the DHS.

FURTHER ORDER: The respondent is instructed to notify the Board of any further disciplinary action against him.

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 (2013).

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

FOR THE BOARD