

Falls Church, Virginia 20530

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MAR 01 2016

File: D2016-0002

Date:

In re: STEPHEN C. BACA, 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

The respondent will be suspended from practice before the Board, the Immigration Courts, and the Department of Homeland Security (the "DHS") for 3 months.

On November 19, 2015, the Supreme Court of Colorado suspended the respondent from the practice of law in that state for a period of one year and one day with three months served and the remainder stayed upon the successful completion of a 3 year period of probation. Consequently, on February 8, 2016, the Disciplinary Counsel for the Executive Office of Immigration Review (EOIR) filed a Notice of Intent to Discipline and 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 disciplined and suspended from practice before that agency.

Before we ruled on the EOIR Disciplinary Counsel's petition for immediate suspension, the respondent filed a timely answer to the allegations contained in the Notice of Intent to Discipline. 8 C.F.R. § 1003.105(c)(1). In his answer, the respondent admits the allegations. He asks only that a reinstatement order be issued effective February 20, 2016, the date he is to be automatically reinstated to the practice of law in Colorado.

The EOIR Disciplinary Counsel, however, has moved for summary adjudication and opposes the respondent's request for what amounts to a retroactive effective date for his suspension. The EOIR Disciplinary Counsel argues that a retroactive effective date is not warranted because the respondent did not comply with 8 C.F.R. § 1003.103(c). *See* EOIR Disciplinary Counsel's Motion For Summary Adjudication, at 2. This regulation provides that a practitioner has a duty to notify the EOIR Disciplinary Counsel, within 30 days, when he has been suspended from the practice of law.

The respondent has not offered an explanation for his failure to comply with 8 C.F.R. § 1003.103(c). He has stated only that he understood that he was suspended from practice before the Board and the Immigration Courts before he received a petition for immediate suspension or Notice of Intent to Discipline.

As there is no material issue of fact in dispute, we will enter a final order of discipline in this case. In addition, after consideration of the respondent's answer and submissions, as well as the EOIR Disciplinary Counsel's arguments in her motion for summary adjudication, we do not find

sufficient justification for granting the respondent's request for a retroactive effective date for his period of suspension. We instead hold that the respondent's suspension period should run for 3 months from the date of this order.

ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for a period of 3 months commencing upon the date of this order.

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 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, the Immigration Courts, and DHS under 8 C.F.R. § 1003.107.

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.

  
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FOR THE BOARD