

Falls Church, Virginia 22041

File: D2017-0073

Date: MAY 11 2017

In re: BAKARY FANSU CONTEH, 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 of Immigration Appeals (“Board”), Immigration Courts, and the Department of Homeland Security (“DHS”) for 2 years, effective April 17, 2017.

On February 16, 2017, the Supreme Court of Washington suspended the respondent from the practice of law in that state for 2 years, effective February 23, 2017. The respondent’s violations of relevant rules of professional conduct included his failure to file a timely brief with this Board, on behalf of an immigration client.

The Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) petitioned for the respondent’s immediate suspension from practice before the Board and the Immigration Courts on March 21, 2017, and stated that the respondent remains suspended from the practice of law in Washington. The DHS then asked that the respondent be similarly suspended from practice before that agency. We granted the petition for immediate suspension on April 17, 2017.

The respondent made a filing with the Board on April 20, 2017, which we will construe as a timely answer to the allegations contained in the Notice of Intent to Discipline. 8 C.F.R. § 1003.105(c)(1). The respondent acknowledges that he is subject to discipline by the Board. He states that he “has informed the Clerk’s office of the Seattle Immigration Office of his two year suspension even before they got any communication from WSBA and has ceased to make any representation of clients before the EOIR and DHS since February 16th 2017.”

The respondent thereby appears to argue that his suspension by this Board should run concurrently with the suspension imposed by the Supreme Court of Washington; in other words, his suspension by the Board should be deemed to have commenced on February 16, 2017, the date of his suspension by the Supreme Court of Washington. The respondent’s answer was unaccompanied by any evidence.

As there is no material issue of fact in dispute, and as the EOIR Disciplinary Counsel's proposed sanction of 2 years is appropriate, in light of the respondent's suspension by the Supreme Court of Washington, Notice of Intent to Discipline at p. 2, the Board will honor that proposal. *See also* EOIR Disciplinary Counsel's "Motion For Summary Adjudication", at pp. 1-2.

Further, after consideration of the respondent's answer, as well as the government's filing, the Board will deem the suspension to have commenced on April 17, 2017, the date of the Board's immediate suspension order.

In attorney discipline cases where respondents are placed under an immediate suspension order by the Board, pursuant to 8 C.F.R. § 1003.103(a)(4), we often have deemed the respondent's final discipline to have commenced as of the date of such immediate suspension order. *See, e.g., Matter of Kronegold*, 25 I&N Dec. 157, 163 (BIA 2010). Some respondents, such as attorney Conteh, request that the final Board discipline instead run concurrently with the discipline imposed by their state bars or other authority.

The EOIR Disciplinary Counsel argues that the respondent's request for the Board's final discipline to be imposed nunc pro tunc to the Supreme Court of Washington discipline is not warranted (EOIR Disciplinary Counsel's "Motion For Summary Adjudication", at p. 2). That is, the respondent suggests that he complied with 8 C.F.R. § 1003.103(c). 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, however, provides no evidence to show that he complied with the regulation at some unspecified date (EOIR Disciplinary Counsel's "Motion For Summary Adjudication", at p. 2). The respondent also presents no evidence to show that he has not practiced before the Board, Immigration Courts, or DHS, after being suspended in Washington. *Id.* A respondent's failure to meet the regulatory notice requirement will likely result in a delay by the Disciplinary Counsel for EOIR in instituting practitioner disciplinary proceedings.

The duty to notify the EOIR Disciplinary Counsel under 8 C.F.R. § 1003.103(c) is even more pronounced when a respondent, such as Conteh, has previously been disciplined under our attorney discipline regulations. On October 22, 2012, in Case No. D2012-264, Conteh was suspended from practice before the Board, Immigration Courts, and DHS, for 6 months, based on another suspension order by the Supreme Court of Washington.

Therefore, the Board will deem the respondent's suspension to have commenced on April 17, 2017, the date of the Board's immediate suspension order.

ORDER: The Board suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for 2 years, effective April 17, 2017.

FURTHER ORDER: The respondent must maintain compliance with the directives set forth in our prior order. The respondent must notify the Board of any further disciplinary action against him.

FURTHER ORDER: The contents of the order shall be made available to the public, including at the Immigration Courts and appropriate offices of the DHS.

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



FOR THE BOARD