

NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

Jose L. DELCASTILLO, D2008-0119

Respondent

FILED

NOV 29 2022

ON BEHALF OF EOIR: Paul A. Rodrigues, Disciplinary Counsel

ON BEHALF OF DHS: Toinette M. Mitchell, Disciplinary Counsel

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
Notice of Intent to Discipline Before the Board of Immigration Appeals

Before: Liebowitz, Appellate Immigration Judge, Noferi, Temporary Appellate Immigration Judge, Brown, Temporary Appellate Immigration Judge¹

Opinion by Noferi, Temporary Appellate Immigration Judge

NOFERI, Temporary Appellate Immigration Judge

The respondent was suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security ("DHS") for 1 year, effective June 24, 2008. On March 2, 2021, we denied his motion seeking reinstatement to practice and imposed an additional year of suspension due to his failure to comply with the terms of his suspension. On September 8, 2022, the respondent filed a second motion seeking reinstatement to practice. The Disciplinary Counsel for the Executive Office for Immigration Review ("EOIR") and the Disciplinary Counsel for DHS oppose the respondent's motion for reinstatement. The respondent's motion for reinstatement will be denied.

On May 9, 2008, in the United States District Court for the District of Connecticut, the respondent pled guilty and was convicted of one count of document fraud, in violation of 18 U.S.C. §§ 2 and 1546(a). This offense is a felony and qualifies as a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h). On May 23, 2008, DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before DHS. On June 6, 2008, the Office of General Counsel for EOIR asked that the respondent be similarly suspended from practice before EOIR, including the Board and Immigration Courts. We granted the petition on June 24, 2008.

The respondent filed an answer to the Notice of Intent to Discipline and requested a hearing. Subsequently, the respondent withdrew his hearing request and signed a Stipulation and Consent

¹ Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. See 8 C.F.R. § 1003.1(a)(4)

to Entry of a Final Order of Discipline. On March 31, 2009, an Adjudicating Official issued a final order suspending the respondent from the practice of law before the Board of Immigration Appeals, the Immigration Courts, and DHS for 1 year, effective June 24, 2008.

On December 31, 2020, the respondent asked to be reinstated to practice before the Board, the Immigration Courts and DHS. In support of his motion, he submitted evidence showing that he is an attorney in good standing in Connecticut and before the United States District Court for the District of Connecticut. *See* 8 C.F.R. § 1003.107(a)(1). The Disciplinary Councils for EOIR and DHS did not consent to the respondent's assertion that he now meets the definition of attorney as set forth in 8 C.F.R. § 1001.1(f). The Disciplinary Councils further argued that the respondent had violated the terms of his suspension by continuing to practice law before the United States Citizenship and Immigration Services ("USCIS"). Based on the Disciplinary Councils' arguments and the evidence they presented in support of their assertions, we denied the respondent's reinstatement request on March 2, 2021, and imposed an addition year of suspension due to the respondent's violations.

The respondent now has filed a second request for reinstatement. He contends that he has complied with all the terms of his suspension and that reinstatement is warranted under 8 C.F.R. § 1003.107(a). The Disciplinary Councils for EOIR and DHS, however, oppose the respondent's request for reinstatement. The Disciplinary Councils argue that the respondent does not meet the requirements for reinstatement set forth in 8 C.F.R. § 1003.107(a) because he does not meet the definition of attorney set forth in 8 C.F.R. § 1001.1(f). In particular, the Disciplinary Councils contend that the respondent remains suspended from the practice of law in New Jersey and is ineligible to practice law in Florida.

The respondent contends that the definition of attorney contained in 8 C.F.R. § 1001.1(f) does not require that he be an attorney in good standing in any state in which he has been admitted to practice. The respondent maintains that he is eligible to practice and is an attorney in good standing in Connecticut and that he therefore meets the definition of attorney contained in 8 C.F.R. § 1001.1(f) (Respondent's Reply at 2). He further contends that he has complied with the suspension requirements of each jurisdiction in which he was disciplined and that he did not seek to practice again in Florida because he wanted a simpler professional life. The respondent also states that he did not seek to practice again in New Jersey and that his inquiry with the New Jersey Disciplinary Review Board regarding his suspended status is pending (Respondent's Reply at 2).

While the Disciplinary Counsel's evidence showing the respondent is not eligible to practice law in Florida is not sufficient to establish that he is "under any order suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law" in Florida, the evidence from New Jersey shows that the respondent is suspended from the practice of law in that state (Gov't Opp., Attachments 1 and 2). 8 C.F.R. § 1001.1(f). The respondent accordingly does not meet the definition of attorney contained in 8 C.F.R. § 1001.1(f), and he does not meet the requirements for reinstatement set forth in 8 C.F.R. § 1003.107(a). We therefore deny the respondent's request for reinstatement. 8 C.F.R. § 1003.107(a)(3).

ORDER: The respondent's motion for reinstatement is denied.

Falls Church, Virginia 22041

File: D2008-0119

Date:

MAR 02 2021

In re: Jose L. DELCASTILLO, Attorney

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

MOTION

ON BEHALF OF EOIR: Paul A. Rodrigues, Disciplinary Counsel

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

The respondent was suspended from practice before the Board of Immigration Appeals, the Immigration Courts, and the Department of Homeland Security (DHS) for 1 year, effective June 24, 2008, and remains suspended. On December 31, 2020, he filed a motion seeking reinstatement to practice. The Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) and the Disciplinary Counsel for the DHS oppose the respondent's motion for reinstatement. The respondent's motion for reinstatement will be denied.

On May 9, 2008, in the United States District Court for the District of Connecticut, the respondent pled guilty and was convicted of one count of document fraud, in violation of 18 U.S.C. §§ 2 and 1546(a). This offense is a felony and qualifies as a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h). On May 23, 2008, the DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. On June 6, 2008, the Office of General Counsel for EOIR asked that the respondent be similarly suspended from practice before EOIR, including the Board and Immigration Courts. We granted the petition on June 24, 2008.

The respondent filed an answer to the Notice of Intent to Discipline and requested a hearing. Subsequently, the respondent withdrew his hearing request and signed a Stipulation and Consent to Entry of a Final Order of Discipline. On March 31, 2008, an Adjudicating Official issued a final order suspending the respondent from the practice of law before the Board of Immigration Appeals, the Immigration Courts, and the DHS for 1 year, effective June 24, 2008.

The respondent now asks to be reinstated to practice before the Board, the Immigration Courts and the DHS. In support of his motion, he has submitted evidence showing that he is an attorney in good standing in Connecticut and before the United States District Court for the District of Connecticut. *See* 8 C.F.R. § 1003.107(a)(1). The Disciplinary Counsels for EOIR and the DHS have not contested the respondent's assertion that he now meets the definition of attorney as set forth in 8 C.F.R. § 1001.1(f).

The Disciplinary Councils for EOIR and the DHS nevertheless oppose the respondent's reinstatement because he did not comply with the terms of his suspension. *See* 8 C.F.R. § 1003.107(a)(2). In support of their assertions, the Disciplinary Councils for EOIR and the DHS have submitted evidence showing that the respondent prepared at least 2 petitions and 1 application filed with the United States Citizenship and Immigration Services (USCIS) during the term of his suspension (Gov't Opp. to Reinstatement, Attachments 1-3). The Disciplinary Councils also have submitted evidence showing that the respondent has created an attorney account in MyUSCIS even though he is not currently eligible to appear as an attorney before USCIS (Gov't Opp. to Reinstatement, Attachment 4). In light of this evidence, the Disciplinary Councils for EOIR and the DHS ask the Board to deny the respondent's motion for reinstatement.

In response to the Disciplinary Councils' arguments, the respondent contends that he was not practicing law before the Board of Immigration Appeals, the Immigration Courts, or the DHS when he completed the forms referenced. He maintains that his work was limited to completing the forms (Reply to Opp., at 3). In addition, he contends that he has complied with all the terms for reinstatement set forth in the March 31, 2008, order suspending him from practice and that he should be reinstated.

The evidence submitted by the Disciplinary Councils for EOIR and the DHS establishes that the respondent has not complied with the Board's suspension order. Contrary to the respondent's assertions, an attorney is practicing before DHS when he or she completes forms on behalf of a client and then files those forms with the USCIS. 8 C.F.R. § 1001.1(i) (stating that the term "practice" means "the act or acts of any person appearing in any case, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client before or with the DHS, or any immigration judge or the Board").

The respondent therefore has not met his burden of establishing that he is entitled to reinstatement to practice before the Board, the Immigration Courts or the DHS. *See* 8 C.F.R. § 1003.107(a)(3) (stating that, if a practitioner failed to comply with the terms of the suspension, the Board "shall deny" reinstatement and indicate the circumstances under which the practitioner may apply for reinstatement). We accordingly deny the respondent's motion and order that the respondent should remain suspended for an additional year, effective as of the date of this order. *Id.*

ORDER: The respondent's motion for reinstatement is denied.

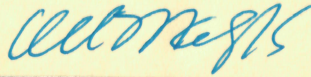
FURTHER ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS for 1 year, effective as of the date of this order.

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

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

D2008-0119

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