

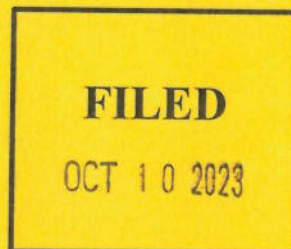
NOT FOR PUBLICATION

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

MATTER OF:

Grace Ingrid GARDINER, D2021-0201

Respondent



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

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

ON BEHALF OF RESPONDENT: Pro se

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
On Motion from a Decision of the Board of Immigration Appeals

Before: Clark, Appellate Immigration Judge; Creppy, Appellate Immigration Judge; Liebowitz,
Appellate Immigration Judge¹

Opinion by Creppy, Appellate Immigration Judge

CREPPY, 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 4 months, effective August 30, 2021, and remains suspended. On February 15, 2022, she filed a motion seeking reinstatement to practice. The Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and the Disciplinary Counsel for DHS opposed the respondent’s motion for reinstatement, and we denied the motion.² See 8 C.F.R. §§ 1003.107(a)(1) and (3); 8 C.F.R. § 1001.1(f). On August 18, 2023, the respondent filed a second motion for reinstatement, which the Disciplinary Counsels again oppose. After considering the arguments and evidence from both parties, we will grant the respondent’s second motion for reinstatement.

On August 30, 2021, the Supreme Court of Tennessee suspended the respondent from the practice of law in Tennessee for 3 years with 4 months to be served in active suspension and the remainder on probation subject to conditions. On October 14, 2021, the Disciplinary Counsel for EOIR and the Disciplinary Counsel for DHS jointly petitioned for the respondent’s immediate

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

² Any reference to “the Disciplinary Counsels” or “the Government” in this decision are references to the Disciplinary Counsels for EOIR and DHS.

suspension from practice before the Board of Immigration Appeals, the Immigration Courts, and DHS. We granted the petition on November 15, 2021.

On November 10, 2021, the respondent filed a document she titled “Answer to the Joint Petition for Immediate Suspension” which we construed to be an answer to the Notice of Intent to Discipline. In the document, the respondent waived her right to a hearing, admitted the facts outlined in the August 30, 2021, order of the Supreme Court of Tennessee, and asked that the Board issue a final order of discipline. Given the respondent’s admissions and concessions, the fact that she notified the Disciplinary Counsels for EOIR and DHS of her suspension in Tennessee, and her 4 month suspension in Tennessee, our December 21, 2021, final order of discipline suspended the respondent from practice before the Board, the Immigration Courts, and DHS for 4 months, effective August 30, 2021, the date of her suspension in Tennessee.

In her first motion for reinstatement, the respondent presented evidence that she had been reinstated to the practice of law in Tennessee and asked for reinstatement to practice before the Board, the Immigration Courts, and DHS (Respondent’s First Mot, Exh. 4). *See* 8 C.F.R. § 1003.107(a)(1). The Disciplinary Counsels for EOIR and DHS, however, argued that the respondent remained suspended from the practice of law in Kentucky and therefore did not meet the definition of attorney set forth in the regulations. 8 C.F.R. § 1001.1(f). The Disciplinary Counsels for EOIR and DHS submitted a January 20, 2022, order issued by the Supreme Court of Kentucky and a copy of the respondent’s Kentucky Bar Association attorney profile listing the respondent as suspended in support of their argument, and the Disciplinary Counsels opposed reinstatement. Based on the Disciplinary Counsels’ evidence that the respondent remained suspended in Kentucky, we concluded that the respondent did not meet the definition of attorney contained in 8 C.F.R. § 1001.1(f), and we denied her motion for reinstatement. *See* 8 C.F.R. § 1003.107(a)(3) (stating that the Board “shall deny the motion for reinstatement without further consideration” if an individual does not meet the definition of attorney).

On August 18, 2023, the respondent filed a second motion for reinstatement arguing that she is no longer suspended in Tennessee, Kentucky, or Minnesota and therefore meets the definition of attorney contained in 8 C.F.R. § 1001.1(f). The respondent also contends that she has the moral and professional qualifications to return to immigration practice. In support of her motion, the respondent has submitted evidence showing her reinstatement in Tennessee, Kentucky, and Minnesota and letters of recommendation praising her character.

The Disciplinary Counsels for EOIR and DHS, however, again oppose reinstatement on the ground that the respondent does not meet the definition of attorney in 8 C.F.R. § 1001.1(f). The Disciplinary Counsels argue that the respondent has not submitted proof to establish that she has been reinstated to practice before the Bankruptcy Court in the Eastern District of Tennessee. The Disciplinary Counsels also contend that the respondent has not complied with the terms of our suspension order because she submitted a Notice of Entry of Appearance to the U.S. Citizenship and Immigration Services (“USCIS”) on February 10, 2023, indicating that she was not subject to any order restricting her practice of law (Gov’t Opp. To Reinstatement, at 2).

In response to the Disciplinary Councils' arguments, the respondent has provided evidence establishing that she has been reinstated to practice before the Bankruptcy Court in the Eastern District of Tennessee (Respondent's Response, Exh. 2). The respondent also has admitted that she erred by filing the Notice of Entry of Appearance before USCIS and not disclosing her suspension (Respondent's Response) (unpaginated).

The evidence of record now shows that the respondent meets the definition of attorney contained in 8 C.F.R. § 1001.1(f). The respondent has listed the jurisdictions in which she has been admitted to practice and has provided evidence that she is no longer suspended from the practice of law in any of these jurisdictions. The respondent accordingly has overcome the Disciplinary Councils' first objection to her motion for reinstatement.

The second concern raised by the Disciplinary Councils involves a single violation of our suspension order. The respondent has admitted that she committed this violation, but her claim that she thought she was able to practice after her reinstatements in other jurisdictions is curious given that she had filed her first motion for reinstatement with the Board a year earlier, a filing that seemed to indicate she understood she had to be reinstated before she could return to practice.

Nevertheless, the respondent's transgression appears to be a single incident, and she has remained suspended for more than 6 months since that violation even though her original sanction of a 4 month suspension ended at the end of 2021. In total, the respondent now has been suspended from practice before the Board, the Immigration Courts, and DHS for 2 years. This period is sufficient to qualify both as her original sanction and an additional period of suspension for her violation of her initial suspension. Further, the respondent has submitted letters attesting to her good character and has made sufficient efforts both to notify relevant jurisdictions of her original disciplinary sanction and then to comply with all requirements for reinstatement in these jurisdictions, including this one. She further has been reinstated to practice in all other jurisdictions. Given all of these circumstances, we will grant the respondent's motion for reinstatement. In doing so, we caution her that any future violation of one of our disciplinary orders will not be tolerated. Knowing violations of our disciplinary orders can result in disbarment. *See Matter of K Gupta*, 28 I&N Dec. 653 (BIA 2022) (finding that disbarment may be appropriate when an attorney knowingly disregards a suspension order and claims on notices of entry of appearance forms that he or she is not subject to any restriction on his or her ability to practice law).

ORDER: The respondent is reinstated to practice before the Board of Immigration Appeals, the Immigration Courts, and DHS, as of the date of this order.

FURTHER ORDER: This reinstatement should be reflected in any public notices maintained and disseminated by the Executive Office for Immigration Review regarding attorney discipline.

FURTHER ORDER: If the respondent wishes to represent a party before DHS, the Immigration Courts, or the Board, she must file a Notice of Appearance (Form G-28, Form EOIR-26, or Form EOIR-27) even in cases in which she was counsel prior to her suspension.