

Falls Church, Virginia 22041

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File: D2003-039

Date: APR 14 2004

In re: RUFINO J. VILLARREAL, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Esquire

ON BEHALF OF DHS: Eileen M. Connolly, Appellate Counsel

ORDER:

PER CURIAM. The respondent will be suspended from practice before the Board, the Immigration Courts, and the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) DHS for a period of 5 years.

On January 29, 2003, the Supreme Court of Nebraska temporarily suspended the respondent from the practice of law in that state. Consequently, on March 3, 2003, the Office of General Counsel for the Executive Office for Immigration Review petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On March 7, 2003, the DHS asked that the respondent be similarly suspended from practice before that agency. Therefore, on April 10, 2003, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

On January 30, 2004, the Supreme Court of Nebraska disbarred the respondent from the practice of law. The court upheld a 112-page referee's report which detailed the respondent's numerous violations of the Code of Professional Responsibility. The court found that the respondent, whose practice involved a "large percentage" of immigration cases,

committed 60 different violations of disciplinary rules, including engaging in conduct involving dishonest, fraud, deceit, or misrepresentation; engaging in conduct prejudicial to the administration of justice; handling matters without adequate preparation; neglecting legal matters; failing to carry out contracts for employment; engaging in conduct prejudicial to his clients; knowingly advancing unwarranted claims; and knowingly making false statements.

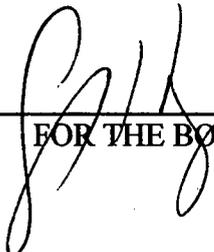
See Court's January 30, 2004, Op. at 1,4. Each of the charges involved immigration clients. *Id.* at 2. The court also found that the respondent was in contempt of court for continuing to practice law despite its January 29, 2003, temporary suspension order. *Id.* at 4.

On February 11, 2004, the Office of General Counsel filed a Notice of Intent to Discipline against the respondent. See 8 C.F.R. § 1003.105(a); *Matter of Gadda*, 23 I&N Dec. 645, 646 (BIA 2003).

The respondent was required to file a timely answer to the allegations contained in the Notice of Intent to Discipline but has failed to do so. *See* 8 C.F.R. § 1003.105(c)(1). The respondent's failure to file a response within the time period prescribed in the Notice constitutes an admission of the allegations therein, and the respondent is now precluded from requesting a hearing on the matter. 8 C.F.R. § 1003.105(d)(1), (2).

The Notice recommends that the respondent be suspended from practicing before the Board and the Immigration Courts, for a period of 5 years. The DHS asks that we extend that discipline to practice before it as well. Because the respondent has failed to file an answer, the regulations direct us to adopt the recommendation contained in the Notice, unless there are considerations that compel us to digress from that recommendation. 8 C.F.R. § 1003.105(d)(2). Since the recommendation is appropriate in light of the sanctions imposed in Nebraska, we will honor that recommendation. Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 5 years. As the respondent is currently under our April 10, 2003, order of suspension, we will deem the respondent's suspension to have commenced on that date. The respondent is instructed to maintain compliance with the directives set forth in our prior order. The respondent is also instructed to notify the Board of any further disciplinary action against him.

After the suspension period expires, the respondent may petition this Board for reinstatement to practice before the Board, Immigration Courts, and DHS. *See* 8 C.F.R. § 1003.107(a). In order to be reinstated, the respondent must demonstrate that he meets the definition of an attorney or representative, as set forth in 8 C.F.R. § 1001.1(f) and (j). *Id.* Therefore, the respondent must show that he has been reinstated to practice law in Nebraska before he may be reinstated by the Board. *See* 8 C.F.R. § 1001.1(f) (stating that term "attorney" does not include any individual under order suspending him from the practice of law). The respondent may seek earlier reinstatement under appropriate circumstances. *See* 8 C.F.R. § 1003.107(b).

  
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FOR THE BOARD