

Falls Church, Virginia 22041

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File: D2002-118

Date: March 28, 2005

In re: MARCIA JEAN BRINKLEY, 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. On September 1, 2004, the Commission for Lawyer Discipline of the State Bar of Texas held a hearing and the respondent failed to appear at her hearing. The Evidentiary Panel considered all the evidence submitted and found that the respondent in pending immigration matters failed to appear in court on behalf of her clients, without explanation and without making any provisions for her clients' continued representation, thus neglecting her clients and abandoning their cases. On September 7, 2004, the State Bar of Texas suspended the respondent from the practice of law in that state for a period of 5 years, with the suspension beginning on October 1, 2004, and ending on September 30, 2009.

Consequently, on January 27, 2005, the Office of General Counsel for the Executive Office for Immigration Review initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. On February 1, 2005, the Department of Homeland Security (the "DHS," formerly the Immigration and Naturalization Service) asked that the respondent be similarly suspended from practice before that agency. Therefore, on February 17, 2005, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

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 by the State Bar of Texas, 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 February 17, 2005, 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 her.

After 2 ½ years from the effective date of the respondent's suspension, the respondent may be reinstated to practice before the Board, the Immigration Courts, and the DHS, provided that the respondent meets the definition of an attorney or representative set forth in 8 C.F.R. § 1001.1(f) and (j). 8 C.F.R. § 1003.107(b). Therefore, should the respondent seek reinstatement, the respondent must notify the Board of her bar standing and her ability to practice law in Texas. We will consider the respondent for reinstatement once the respondent demonstrates by clear, unequivocal, and convincing evidence that she possesses the moral and professional qualifications required to appear before the Board, the Immigration Courts, the DHS, or all three, and that the respondent's reinstatement will not be detrimental to the administration of justice. 8 C.F.R. § 1003.107(b)(1).

Finally, given the reciprocal nature of the discipline we impose, we advise the respondent that, should she be reinstated to practice in Texas prior to completion of his period of suspension, we may entertain a request for reinstatement before Board, the Immigration Courts, and the DHS if that request complies with the instructions set forth above.



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FOR THE BOARD