

Falls Church, Virginia 22041

File: D2005-099

Date: **JAN 15 2009**

In re: JOHN W. KEARNS, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

ON BEHALF OF DHS: Rachel A. McCarthy, Bar Counsel

ON BEHALF OF GENERAL COUNSEL: Jennifer J. Barnes, Bar Counsel

The respondent will be expelled from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS").

On March 8, 2007, the Supreme Court of Illinois issued an order suspending the respondent from the practice of law immediately and until further order of the court. Consequently, on March 22, 2007, the DHS initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. The Office of General Counsel for the Executive Office for Immigration Review (EOIR) then asked that the respondent be similarly suspended from practice before EOIR, including the Board and Immigration Courts. Therefore, on April 6, 2007, we suspended the respondent from practicing before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding.

The DHS filed a Notice of Intent to Discipline on November 7, 2008. The DHS presents evidence that, on September 17, 2008, the Illinois Supreme Court suspended the respondent from the practice of law for 2 years. Further, on October 28, 2008, the Hearing Board of the Illinois Attorney Registration and Disciplinary Commission issued a Report and Recommendation, in another matter, recommending that the respondent be disbarred. The Report and Recommendation includes findings that the respondent continued to practice law after being suspended by the Illinois Supreme Court and Board.

The Notice recommends that the respondent be expelled from practice before the DHS. The Office of General Counsel of EOIR asks that we extend that discipline to practice before the Board and Immigration Courts as well. As the respondent failed to file a timely 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); 1292.3(e)(3)(ii).

Since the recommendation is appropriate in light of the respondent's suspension in Illinois, and the fact that the respondent "continued to practice law after he was suspended from practice in Illinois and by the Board, including in his immigration law practice", Notice of Intent To Discipline, at § 12, we will honor it. As the respondent is currently under our April 6, 2007, order of suspension, we will deem the respondent's suspension to have commenced on that date.

ORDER: The Board hereby expels the respondent from practice before the Board, the Immigration Courts, and the DHS.

FURTHER ORDER: 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.

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

A handwritten signature in black ink, appearing to read "D. B. [unclear]", is written above a horizontal line.

FOR THE BOARD