

Falls Church, Virginia 22041

File: D2003-086

Date: SEP 11 2003

In re: ARMANDO JAVIER MENDEZ, 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 March 3, 2003, the respondent was suspended from the practice of law for one year, stayed, with an actual suspension of 90 days, and later probation, subject to other conditions, by the Supreme Court of California. The State Bar Court Hearing Department had decided on September 4, 2002, that the respondent had provided inadequate assistance, in immigration cases.

Consequently, on July 1, 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 July 7, 2003, 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 July 24, 2003, 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).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 90 days. 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 California, we will honor that recommendation.

¹Regulations relating to the Executive Office for Immigration Review, found in title 8 of the Code of Federal Regulations, were reorganized on February 28, 2003, due to the Homeland Security Act of 2002. See 68 FR 9824 (February 28, 2003). There was no substantive changes made to the regulations. *Id.* at 9825. Until February 28, 2003, 8 C.F.R. § 1003.105 was found at 8 C.F.R. § 3.105.

Accordingly, we hereby suspend the respondent from practice before the Board, the Immigration Courts, and the DHS for a period of 90 days. As the respondent is currently under our July 24, 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 90-day 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 California 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).



FOR THE BOARD