

Falls Church, Virginia 22041

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File: D2007-268

Date: JUN 26 2009

In re: JAMES D. CHRISTO, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

PETITION FOR IMMEDIATE SUSPENSION

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

ON BEHALF OF EOIR: Jennifer J. Barnes, Disciplinary Counsel

On April 3, 2009, in the United States District Court for the Southern District of New York, the respondent was found guilty of a "serious crime" within the meaning of 8 C.F.R. § 1003.102(h), relating to his immigration law practice. That is, the respondent was found guilty of one count of conspiracy to commit immigration fraud, in violation of 18 U.S.C. § 371. Consequently, on April 22, 2009, the Department of Homeland Security (the "DHS") initiated disciplinary proceedings against the respondent and petitioned for the respondent's immediate suspension from practice before the DHS. The Disciplinary 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. The petition will be granted, and proceedings in the case concerning the government's Notice of Intent to Discipline will be stayed pending the conclusion of the direct appeal of the respondent's criminal conviction.

The respondent contends that it is "premature" to suspend him from practice. The respondent argues that he was not convicted of the crime. Although a jury found him guilty on April 3, 2009, the respondent asserts that a conviction has not been entered against him, and he plans to file post-verdict motions. However, the regulations provide for immediate suspension of a practitioner who has "been found guilty of, or pleaded guilty or *nolo contendere* to, a serious crime, as defined in § 1003.102(h) of this chapter." 8 C.F.R. §§ 1292.3(c)(1); 1003.103(a); DHS Opp. The respondent was "found guilty" of a serious crime. The claimed fact that the respondent has not committed any improper conduct before the Board, the Immigration Courts, or the DHS, and the assertion that the respondent has not yet been disciplined by state disciplinary authorities, are not reasons to refrain from entering an immediate suspension order.

The regulations note, however, that attorney discipline proceedings may not be concluded "... until all direct appeals from an underlying criminal conviction have been completed." 8 C.F.R. § 1292.3(c)(3). Therefore, proceedings concerning the Notice of Intent to Discipline will be stayed until the conclusion of the direct appeal of the respondent's criminal conviction. *See* DHS Opp., at § 12.

ORDER: The petition is granted, and the respondent is hereby suspended from the practice of law before the Board, the Immigration Courts, and the DHS pending final disposition of this proceeding. See 8 C.F.R. § 1003.103(a); 1292.3(c).

FURTHER ORDER: The respondent is directed to promptly notify, in writing, any clients with cases currently pending before the Board, the Immigration Courts, or the DHS that the respondent has been suspended from practicing before these bodies.

FURTHER ORDER: The respondent shall maintain records to evidence compliance with this order.

FURTHER ORDER: The Board directs that the contents of this notice be made available to the public, including at Immigration Courts and appropriate offices of the DHS.

FURTHER ORDER: Proceedings in the case concerning the Notice of Intent to Discipline are stayed pending the conclusion of the direct appeal of the respondent's criminal conviction.

A handwritten signature in cursive script, reading "Frederick D. Hess", is written above a horizontal line.

FOR THE BOARD