

Falls Church, Virginia 22041

File: D2009-031

Date: =

MAR 20 2009

In re: CHRISTIAN DE OLIVAS

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

PETITION FOR IMMEDIATE SUSPENSION/MOTIONS

ON BEHALF OF EOIR: Scott Anderson, Deputy Disciplinary Counsel

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

On September 24, 2008, the United States District Court for the Southern District of California suspended the respondent from the practice of law for 1 year. Consequently, on February 11, 2009, the Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) petitioned for the respondent's immediate suspension from practice before the Board of Immigration Appeals and the Immigration Courts. The Department of Homeland Security (the "DHS") then asked that the respondent be similarly suspended from practice before that agency. The petition, as well as the EOIR Disciplinary Counsel's motion to amend the Notice of Intent to Discipline, will be granted.

The respondent filed a motion on March 2, 2009, arguing that the immediate suspension order should not issue. *Cf.* 8 C.F.R. § 1003.103(a)(2) (immediate suspension order may be set aside "[u]pon good cause shown... when it appears in the interest of justice to do so"). The respondent argues that he should not be disciplined because the court's order was the result of a "settlement agreement." As the EOIR Disciplinary Counsel argues, there is no requirement that a practitioner be adjudged to have committed misconduct, before being immediately suspended. Rather, the Board is to immediately suspend "any practitioner who has been suspended ... by ... any Federal court." 8 C.F.R. § 1003.103(a)(1); *Matter of Rosenberg*, 24 I&N Dec. 744 (BIA 2009). Moreover, as the EOIR Disciplinary Counsel argues, at 3, where the respondent is currently prohibited from practicing law before the United States District Court for the Southern District of California, he is not eligible to practice before the Board, Immigration Courts, or DHS, regardless of his status before a state bar. 8 C.F.R. § 1292.1(a)(referencing 8 C.F.R. § 1001.1(f), which defines as an attorney a person who is a member of good standing of a bar who "is not under any order of any court suspending ... him in the practice of law"); *Matter of Rosenberg, supra*.

Moreover, as the EOIR Disciplinary Counsel argues, at 2, the respondent's argument that his suspension will harm his law practice is also not a basis for the Board to refrain from issuing an immediate suspension order. "The usual hardships that accompany a suspension from practice (e.g., loss of income, duty to complete pending cases) are generally not sufficient to set aside an immediate suspension order." Board of Immigration Appeals Practice Manual, Chapter 11.7(a)(ii). The claims are those that could be made by any sole practitioner suspended by the Board. Moreover, the respondent's low income clients may seek legal services from other sources. EOIR Disciplinary Counsel Opp., at 3.

Finally, as the EOIR Disciplinary Counsel also argues, at 3, given the heavy burden of proof on the respondent concerning the merits of the attorney discipline case, 8 C.F.R. § 1003.103(b)(2), it is not in the interest of justice to decline to issue a immediate suspension order. *Matter of Rosenberg, supra.*

On February 27, 2009, the EOIR Disciplinary Counsel filed a motion seeking to amend the Notice of Intent to Discipline to add a new charge against the respondent. The motion, which is not opposed by the respondent, will be granted. As part of his response, the respondent "admits the allegations in the amended Notice to Discipline", and "requests no hearing." Therefore, a final order concerning the requested discipline will be forthcoming.

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).

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: The motion of the EOIR Disciplinary Counsel seeking to amend the Notice of Intent to Discipline to add a new charge against the respondent is granted.

FURTHER ORDER: A final order concerning the requested discipline will be forthcoming.



FOR THE BOARD