

Falls Church, Virginia 22041

---

---

File: D2004-153

Date: JAN 24 2006

In re: MARIO ANTONIO BAUTISTA, 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 July 11, 2005, a jury verdict was filed in the California Superior Court for the County of Santa Clara concerning the respondent. The respondent was found guilty on numerous counts charged in the information, including, among others, sexual penetration of a person under the age of 16, and attempting to dissuade a victim from reporting a crime. The felony crimes are "serious crimes" within the meaning of 8 C.F.R. § 1003.102(h). On August 4, 2005, with additional reasons provided September 16, 2005, the Review Department of the California State Bar Court In Bank issued an order of interim suspension, as the respondent's crimes involved moral turpitude.

Consequently, on November 17, 2005, 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 November 22, 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 December 2, 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 indefinitely from practicing before the EOIR. 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 for indefinite suspension is appropriate in light of the respondent's serious crimes, and in light of the fact that the respondent is under an order of interim suspension from the practice of law in California, we will honor that recommendation. Accordingly, we hereby suspend indefinitely the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our December 2, 2005, order of suspension, we will deem the respondent's indefinite 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. The respondent may seek reinstatement under appropriate circumstances. *See* 8 C.F.R. § 1003.107(b).

  
\_\_\_\_\_  
FOR THE BOARD