

Falls Church, Virginia 22041

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File: D2009-195

Date:  OCT - 7 2009

In re: BARTON CARL WINTER

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

The respondent will be suspended from practice before the Board, Immigration Courts, and Department of Homeland Security (the "DHS"), for 120 days.

On August 6, 2009, the Supreme Court of Minnesota indefinitely suspended the respondent from the practice of law, with no right to petition for reinstatement for a minimum of 120 days. Consequently, on August 25, 2009, the Disciplinary 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. The DHS then asked that the respondent be similarly suspended from practice before that agency. Therefore, on September 15, 2009, the Board 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 proposes that the respondent be suspended for 120 days from practicing before the Board and the Immigration Courts. The DHS asks that the Board extend that discipline to practice before it as well. Because the respondent has failed to file an answer, the regulations direct the Board to adopt the proposed sanction contained in the Notice, unless there are considerations that compel us to digress from that proposal. 8 C.F.R. § 1003.105(d)(2).

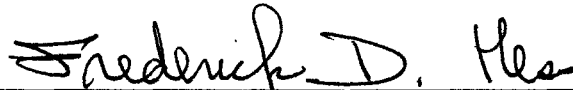
Since the proposed sanction is appropriate, in light of the respondent's suspension in Minnesota, the Board will honor that proposal. The EOIR Disciplinary Counsel recommends that the suspension period run concurrently with the suspension in Minnesota, based on the respondent having timely notified the government of his suspension under 8 C.F.R. § 1003.103(c). The respondent's suspension will therefore be deemed to have commenced on August 6, 2009.

ORDER: The Board hereby suspends the respondent from practice before the Board, the Immigration Courts, and the DHS, for 120 days.

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).

FURTHER ORDER: As the Board earlier imposed an immediate suspension order in this case, today's order of the Board becomes effective immediately. *See* 73 Fed. Reg. 76914, 76925 (December 18, 2008)(to be codified at 8 C.F.R. § 1003.105(d)(2)).

A handwritten signature in cursive script, appearing to read "Frederick D. Hls", is written over a horizontal line.

FOR THE BOARD