

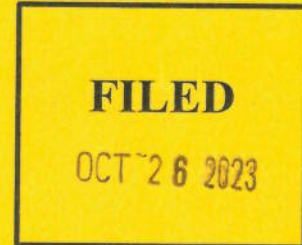
NOT FOR PUBLICATION

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

MATTER OF:

Matus VARGA, D2022-0167

Respondent



ON BEHALF OF RESPONDENT: Pro se

ON BEHALF OF DHS: Toinette M. Mitchell, Disciplinary Counsel

ON BEHALF OF EOIR: Paul A. Rodrigues, Disciplinary Counsel

IN PRACTITIONER DISCIPLINARY PROCEEDINGS
On Motion from a Decision of the Board of Immigration Appeals

Before: Malphrus, Deputy Chief Appellate Immigration Judge; Clark, Appellate Immigration Judge; Creppy, Appellate Immigration Judge¹

Opinion by Clark, Appellate Immigration Judge

CLARK, Appellate Immigration Judge

The respondent was suspended from practice before the Board of Immigration Appeals (“Board”), the Immigration Courts, and the Department of Homeland Security (“DHS”) for six months, effective October 19, 2022. On September 8, 2023, the respondent filed a motion seeking reinstatement to practice. The Disciplinary Counsel for the Executive Office for Immigration Review (“EOIR”) and the Disciplinary Counsel for DHS oppose the respondent’s motion for reinstatement. The respondent’s motion for reinstatement will be denied.

On March 30, 2022, the United States Court of Appeals for the Eleventh Circuit suspended the respondent from the practice of law in the Eleventh Circuit for a period of six months, effective immediately. On August 2, 2022, the Eleventh Circuit suspended the respondent from the practice of law in the Eleventh Circuit indefinitely, effective immediately. On September 26, 2022, the Disciplinary Counsels for the EOIR and DHS jointly petitioned for the respondent’s immediate suspension from practice before the Board, the Immigration Courts, and DHS. We granted the petition for immediate suspension on October 19, 2022.

The respondent filed an answer to the Notice of Intent to Discipline (“NOID”) and admitted the allegations in the Notice. Given the respondent’s 6-month and indefinite suspensions from the

¹ Temporary Appellate Immigration Judges sit pursuant to appointment by the Attorney General. See 8 C.F.R. § 1003.1(a)(4)

practice of law in the Eleventh Circuit, our February 15, 2023, final order of discipline suspended the respondent from practice before the Board, the Immigration Courts, and DHS for 6 months, effective October 19, 2022, the date of our immediate suspension order.

The respondent seeks reinstatement, asserting that the Board's 6-month period of suspension has expired, and he now meets the definition of "attorney" set forth in 8 C.F.R. § 1001.1(f) because he is in good standing with the New York Supreme Court, Appellate Division, Third Judicial Department (Respondent's Mot.).

The Disciplinary Councils for EOIR and DHS object to reinstatement, contending the respondent does not meet the federal regulatory definition of attorney at 8 C.F.R. § 1001.1(f) because he is currently under an order of suspension in the Eleventh Circuit.

The Disciplinary Councils are correct that the respondent does not meet the regulatory definition of attorney due to his current order of suspension in the Eleventh Circuit. *See* 8 C.F.R. § 1001.1(f) (stating that "the term attorney means any person who is eligible to practice law in and is a member in good standing of the bar of the highest court of any [s]tate . . . and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law").

In response to the Disciplinary Councils' objection, the respondent explains the circumstances that resulted in his suspensions by the Eleventh Circuit, and has submitted additional evidence regarding those actions. However, the respondent has not shown that the Eleventh Circuit has vacated or modified the indefinite suspension, and that he now meets the federal definition of attorney. While we sympathize with the circumstances as alleged by the respondent, we are not able to circumvent the regulations for such circumstances. *See* 8 C.F.R. § 1003.107(a)(1) (discussing requirements for reinstatement).

Accordingly, we cannot at this time reinstate the respondent to practice before the Board, the Immigration Courts, and DHS. *See* 8 C.F.R. § 1003.107(b)(3) (stating that, if a practitioner cannot meet the definition of attorney, the Board shall deny the petition for reinstatement without further consideration).

Based on the foregoing, we will deny the motion to reinstate.

ORDER: The respondent's motion for reinstatement is denied.