

Falls Church, Virginia 22041

File: D2008-209

Date:

SEP 2 2010

In re: FRANK X. WEINERT, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

FINAL ORDER OF DISCIPLINE

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

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

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

On January 23, 2008, the Supreme Court of Illinois entered an order striking the respondent's name from the roll of attorneys licensed to practice law in the state of Illinois. This followed the respondent's request that his name be stricken, accompanied by an affidavit in which the respondent admitted that charges of professional misconduct could be proven by clear and convincing evidence.

Consequently, on September 19, 2008, 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) has asked that the respondent be similarly suspended from practice before EOIR, including the Board and Immigration Courts. Therefore, on October 9, 2008, 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 (Amended). 8 C.F.R. §§ 1003.105(c)(1); 1292.3(e)(3)(ii)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. § 1292.3(e)(3)(ii).

The Notice of Intent to Discipline (Amended) proposes that the respondent be expelled from practice before the DHS. The Disciplinary Counsel for EOIR asks that we extend that discipline to practice before the Board and Immigration Courts as well. As the respondent failed to file a timely answer, the regulations direct us 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); 1292.3(e)(3)(ii).

¹ On July 6, 2010, the DHS filed a Notice of Intent to Discipline (Amended), with adequate proof of service on the respondent. 8 C.F.R. § 292.3(e)(1)(2010).

Since the proposed sanction is appropriate in light of the respondent's name being stricken from the roll of attorneys licensed to practice law in the state of Illinois, and as ". . . many of the complaints of professional misconduct respondent has admitted are true relate to his immigration law practice", Notice of Intent to Discipline (Amended), at ¶ 7, we will honor it. Accordingly, we hereby expel the respondent from practice before the Board, the Immigration Courts, and the DHS. As the respondent is currently under our October 9, 2008, order of suspension, we will deem the respondent's suspension to have commenced on that date.

ORDER: The Board hereby expels the respondent from practice before the Board, the Immigration Courts, and the DHS.

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 8 C.F.R. § 1003.105(d)(2)(2010); *Matter of Kronegold*, 25 I&N Dec. 157, 163 (BIA 2010).

FOR THE BOARD