

Falls Church, Virginia 22041

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File: D2016-0131

Date:

AUG 03 2016

In re: ROBERT DEKELAITA, ATTORNEY

IN PRACTITIONER DISCIPLINARY PROCEEDINGS

PETITION FOR IMMEDIATE SUSPENSION

ON BEHALF OF DHS: Catherine M. O'Connell, Disciplinary Counsel

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

On May 9, 2016, in the United States District Court for the Northern District of Illinois, the respondent was convicted, pursuant to a multiple-count indictment, of fraud and misuse of visas and other documents in violation of 18 U.S.C. § 1546, conspiracy to defraud the United States in violation of 8 U.S.C. § 371, and subornation of perjury in violation of 18 U.S.C. § 1622. Consequently, on June 10, 2016, the Disciplinary Counsel for the Department of Homeland Security (DHS) petitioned for the respondent's immediate suspension from practice before that agency. The Disciplinary Counsel for the Executive Office for Immigration Review (EOIR) then asked that the respondent be similarly suspended from practice before the Board of Immigration Appeals and the Immigration Courts.

On July 6, 2016, the respondent filed a motion to stay a decision in this matter until a final decision is made on the merits of his criminal case. The respondent claims that he did not plead guilty to the charges in the criminal indictment and that he continues to challenge what he feels is an unfair and improper prosecution. He states that he has filed a post-trial motion for acquittal and he asks this Board to stay a decision in this matter until his criminal matter is resolved. The respondent argues that taking action now would prejudice him and his clients.

On July 18, 2016, the Disciplinary Counsel for the DHS filed a response to the respondent's motion to stay. In her response, the Disciplinary Counsel for the DHS requests that we proceed with a decision on the petition for immediate suspension. She argues that the interests of justice require that a practitioner who has been convicted of multiple felonies, including immigration fraud, be immediately suspended. She further notes that the respondent is subject to immediate suspension because he did not notify the Disciplinary Counsel for the DHS of his conviction within 30 days. *See* 8 C.F.R. § 292.3(c)(4). The Disciplinary Counsel for the DHS, however, does ask that the proceedings concerning the Notice of Intent to Discipline filed against the respondent be stayed pending the conclusion of the respondent's post-trial proceedings and any appeal of his conviction.

The respondent's crimes are a proper basis for immediately suspending him from practice before the Board, the Immigration Courts and the DHS because the offenses constitute "serious crimes" as defined in 8 C.F.R. § 1003.102(h). *See* 8 C.F.R. §§ 1003.103(a)(1), (2), and (4). In particular, the crimes are felonies. *See* 8 C.F.R. § 1003.102(h). In addition, the crimes involved immigration-related fraud. Fraud of this nature "strikes at the heart of the country's immigration laws and undermines the integrity of the entire system." *Matter of Krivonos*, 24 I&N Dec. 292,

293 (BIA 2007); *see also* 8 C.F.R. § 1003.102(h) (indicating that felonies as well as lesser offenses involving fraud or interference with the administration of justice constitute “serious crimes”).

Further, we agree with the Disciplinary Counsel for the DHS that the interests of justice require that the respondent be immediately suspended in spite of his pending post-trial motion. This finding is consistent with 8 C.F.R. § 1003.103(a)(4), which states that the Board “shall forthwith enter an order immediately suspending the practitioner” upon the filing of a petition for immediate suspension and proof of conviction of a serious crime. *See* 8 C.F.R. § 1003.103(a)(4). The regulations do not require that all post-trial matters or appeals be resolved before immediate suspension is imposed. 8 C.F.R. § 1003.103(a)(4). Accordingly, the petition for immediate suspension is granted. *See* 8 C.F.R. § 1003.103(a)(4). At this time we will not stay proceedings regarding the Notice of Intent to Discipline in the respondent’s case. However, nothing in this order precludes the respondent from requesting a stay of proceedings.

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. 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 contents of this notice shall be made available to the public, including at Immigration Courts and appropriate offices of the DHS.



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FOR THE BOARD