In re Robert William DeKelaita
Attorney-Respondent

Commission No. 2017PR00031

Synopsis of Hearing Board Report and Recommendation
(April 2025)

The Administrator filed a single-count first amended complaint against Respondent pursuant to Illinois Supreme Court Rule 761(d), alleging that Respondent engaged in misconduct by committing a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects, in violation of Illinois Rule of Professional Conduct 8.4(b), based upon his conviction of conspiracy to commit asylum fraud. The Hearing Board found that the Administrator proved that Respondent violated Rule 8.4(b). Recognizing the seriousness of Respondent's misconduct but also considering the extensive mitigation present and the fact that Respondent has been suspended on an interim basis since 2016, the Hearing Board recommended that he be suspended for three years, retroactive to the date of his interim suspension on September 26, 2016.

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of: **ROBERT WILLIAM DEKELAITA,** Attorney-Respondent, No. 6242769.	Commission No. 2017PR00031

REPORT AND RECOMMENDATION OF THE HEARING BOARD

SUMMARY OF THE REPORT

Based upon Respondent's criminal conviction of conspiracy to commit asylum fraud, the Hearing Board foFund that Respondent committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer, and recommended that he be suspended for three years, retroactive to the date of his interim suspension, September 26, 2016.

INTRODUCTION

The hearing in this matter was held at the Chicago office of the ARDC on November 12, 2024, before a panel of the Hearing Board consisting of Jose A. Lopez, Jr., Chair, Melisa Quinones, and James W. Kiley. Matthew D. Lango represented the Administrator. Respondent was present and represented himself.

PLEADINGS AND MISCONDUCT ALLEGED

The Administrator filed a single-count first amended complaint against Respondent pursuant to Illinois Supreme Court Rule 761(d), alleging that Respondent engaged in misconduct by committing a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer in other respects, in violation of Illinois Rule of Professional Conduct 8.4(b), based upon

his conviction of conspiracy to commit asylum fraud. In his Answer, Respondent denied some of the factual allegations against him and admitted others, including that he was convicted on one count of conspiracy to commit asylum fraud.

EVIDENCE

The Administrator's Exhibits 1 through 5 and Respondent's Exhibits 1 and 2 were admitted into evidence by joint stipulation. (Tr. 9.) Respondent testified on his own behalf and presented testimony from five character witnesses.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In attorney disciplinary proceedings, the Administrator has the burden of proving the charges of misconduct by clear and convincing evidence. In re Winthrop, 219 Ill. 2d 526, 542, 848 N.E.2d 961 (2006). Clear and convincing evidence requires a high level of certainty, which is greater than a preponderance of the evidence but less than proof beyond a reasonable doubt. People v. Williams, 143 Ill. 2d 477, 577 N.E.2d 762 (1991); In re Santilli, 2012PR00029, M.R. 26572 (May 16, 2014). The Hearing Board determines whether the Administrator has met that burden. In re Edmonds, 2014 IL 117696, ¶ 35. In doing so, the Hearing Board assesses witness credibility, resolves conflicting testimony, makes factual findings, and determines whether the Administrator met the burden of proof. Winthrop, 219 Ill. 2d at 542-43.

The Administrator charged Respondent with committing a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer, in violation of Rule 8.4(b).

A. Summary

Respondent committed a criminal act that reflects adversely on his honesty, trustworthiness, or fitness as a lawyer, in violation of Illinois Rule of Professional Conduct 8.4(b), based upon his conviction of conspiracy to commit asylum fraud.

B. Admitted Facts and Evidence Considered

Respondent was licensed to practice law in 1997. (Tr. 64.) From 2000 through at least 2011, Respondent concentrated his practice in immigration law, with offices in Skokie, Lincolnwood, and Morton Grove. (Ans. at par.1.) As part of his immigration practice, Respondent represented recent immigrants applying for asylum in the United States. Respondent's clients were primarily Assyrian or Chaldean Christians from Muslim-ruled countries, such as Iraq. (Adm. Ex. 3 at 2-3.)

In September 2014, the United States Attorney for the Northern District of Illinois filed a seven-count indictment against Respondent, followed by a superseding indictment in May 2015 and a second superseding indictment in August 2015, in the matter of United States of America v. Robert DeKelaita, 14 CR 497. The indictments charged Respondent with, among other things, engaging in a decade-long conspiracy, of which he was the "hub" or "brain center," to commit asylum fraud. (Adm. Ex. 3 at 1-2, 4.) Specifically, they alleged that, between 2000 and 2009, Respondent submitted fraudulent asylum applications on behalf of nine clients, in an effort to improve their chances of obtaining asylum in the United States. The fraud involved exaggerating or fabricating the extent of persecution the applicant had endured, or concealing that the applicant had already obtained refuge in another country, which would have disqualified the applicant from seeking asylum in the United States. (Adm. Ex. 3 at 3-4; Adm. Ex. 4 at 1-2; Ans. at pars.8, 9.)

In May 2016, after a 12-day trial, a jury found Respondent guilty of one count of conspiracy to commit asylum fraud, two counts of knowingly offering false statements in an asylum application, and one count of suborning perjury during asylum interviews. Respondent filed a motion for acquittal on all counts. United States District Judge Matthew F. Kennelly denied the motion for acquittal as to the count charging conspiracy to commit asylum fraud, but granted it as to the other counts. In March 2017, Judge Kennelly sentenced Respondent to 15 months'

incarceration in the United States Bureau of Prisons and imposed a fine and payment order in the amount of $70,100. (Ans. at pars.10-12, 14.)

Following his conviction, Respondent filed an appeal in the United States Court of Appeals for the Seventh Circuit. In November 2017, the appellate court affirmed Respondent's conviction and sentence. Respondent then pursued a collateral challenge by filing a motion seeking to vacate his sentence pursuant to 28 U.S.C. §2255. Following a week-long hearing, Judge Kennelly denied Respondent's motion. Respondent appealed that denial to the Seventh Circuit, which, in July 2024, affirmed the denial of Respondent's §2255 motion. (Ans. at pars.15, 16.)

C. Analysis and Conclusions

The first amended complaint in this matter was filed pursuant to Illinois Supreme Court Rule 761, which provides that, when an attorney has been convicted of a crime involving fraud or moral turpitude, a hearing shall be conducted before the Hearing Board to determine whether the crime warrants discipline and, if so, the extent thereof. Ill. S. Ct. R. 761(d). In a hearing conducted pursuant to Rule 761, proof of conviction is conclusive of the attorney's guilt of the crime. Ill. S. Ct. R. 761(f). The Administrator submitted proof of Respondent's criminal conviction of conspiracy to commit asylum fraud. Thus, under Supreme Court Rule 761(f), the Administrator has conclusively established Respondent's guilt of that crime.*

Illinois Rule of Professional Conduct 8.4(b) provides that it is misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. Ill. R. Prof'l Cond. 8.4(b). We find that the conduct for which Respondent was convicted – conspiracy to commit asylum fraud – reflects negatively on his honesty, trustworthiness, and fitness as a lawyer. See In re Broyles, 2010PR00035, M.R. 25239 (May 18, 2012) (Hearing Bd. at 27) (citations omitted) (finding that an attorney's criminal conviction for conspiracy to commit visa fraud "clearly falls within the category of crimes

encompassed by this rule," because the Court "has repeatedly recognized that a conviction of a criminal offense involving fraud or fraudulent conduct constitutes moral turpitude which warrants disciplinary action"). We therefore find that the Administrator proved by clear and convincing evidence that Respondent violated Rule 8.4(b).

EVIDENCE IN MITIGATION AND AGGRAVATION

Mitigation

Respondent expressed remorse and contrition for the events underlying the federal criminal case against him. While he stated that he has believed in his innocence since the beginning of the criminal case against him, he also indicated that he accepted the outcome of the criminal case and respected the court's decisions. (Tr. 15, 60.)

Respondent continues to be a leader in the Assyrian/Chaldean community. He has traveled to Iraq multiple times to advocate for people who were being persecuted. He teaches history via YouTube videos and through his work with several Assyrian/Chaldean organizations. He has been writing and plans to publish a book about history and about his own personal experiences. (Tr. 60-62; see also Resp. Exs. 1, 2.) To remain current in his legal knowledge, Respondent studies immigration law and follows immigration-related news. (Tr. 62.)

Respondent also presented the testimony of five character witnesses. Christina Abraham is an Illinois attorney who was licensed in 2009. She has known respondent for a long time through the Assyrian community of which they both are members, but got to know him better when she began representing him in 2015. Abraham testified that Respondent is a "zealous attorney" who "cares about his clients," and that she had no concern about his ethics. She testified that Respondent was respected among Assyrian attorneys who were also familiar with him as a leader in the community, and that she never heard anybody in the legal community disparage him or his character. (Tr. 17-21)

John Michael, M.D., is a retina specialist who has known Respondent for about 40 years. He described Respondent as "extremely capable, competent, professional, [and] ethical," and someone to whom he would gladly refer close friends and family if Respondent were to practice law again. He believes that other attorneys within the Assyrian community share his opinion that Respondent is highly ethical. (Tr. 24, 26, 28.)

Alia Joseph, who is originally from Pakistan, has known Respondent for about 20 years. She was a former client of his, and then worked for him for a short time. They have since become friends. She testified that she has always thought of him as "genuine" and "sincere." She believes he has good character based upon seeing him interact with clients as well as from her own personal experience as his client. She believes he has "good morals and ethics as a lawyer." (Tr. 32-35.)

Natalie Gabriel Mansour has known Respondent for about 17 years. She worked as a legal assistant for him from 2007 to 2014. She believes he is "honest, responsible, fair … and very compassionate." She testified that Respondent has a positive reputation for ethics and professionalism in the Assyrian community, but is not aware of his reputation in the Chicago legal community. (Tr. 42-46.)

Martin Manna is president of the Chaldean American Chamber of Commerce and the Chaldean Community Foundation, both based in Michigan. He has known Respondent for more than 20 years, through Respondent's work with those organizations. Among other things, Respondent advised the groups on immigration-related matters. Manna testified that Respondent is "one of the most trustworthy and reliable members" of the Assyrian/Chaldean community; has volunteered his time and efforts to aid and support the Assyrian/Chaldean community, including providing *pro bono* legal services; and is "a true serving leader." Manna testified that Respondent has provided services to the Assyrian/Chaldean community throughout the United States, and has

always been held in high regard among the attorneys who do similar work for the community. (Tr. 48-51, 54.)

Aggravation

While Respondent was criminally convicted of one count of conspiracy to commit asylum fraud, the conspiracy involved nine separate immigration cases and spanned from 2000 to 2009. Respondent was the principal architect of the conspiracy to commit asylum fraud. (Tr. 64-65.)

Prior Discipline

Respondent was reprimanded in 2007 for neglecting three client matters. In re DeKelaita, 05 CH 79 (Aug. 16, 2007). The misconduct in those matters occurred from 2001 through 2004.

RECOMMENDATION

A. Summary

Based upon the serious nature of Respondent's misconduct, and considering the mitigating and aggravating factors, the Hearing Board recommends that Respondent be suspended for three years, retroactive to September 26, 2016, which is the date on which his interim suspension commenced.

B. Analysis and Conclusions

The Administrator urged us to recommend that Respondent be suspended for three years and until further order of the Court. Respondent, in turn, asked that any suspension that we recommend be made retroactive to the date on which he was suspended on an interim basis.

In determining appropriate discipline, we are mindful that the purpose of these proceedings is not to punish, but to safeguard the public, maintain the integrity of the profession, and protect the administration of justice from reproach. In re Edmonds, 2014 IL 117696, ¶ 90. While we strive for consistency and predictability, we recognize that each case is unique and must be decided on its own facts. In re Mulroe, 2011 IL 111378, ¶ 25.

In arriving at our recommendation, we consider those circumstances that may mitigate or aggravate the misconduct. In re Gorecki, 208 Ill. 2d 350, 802 N.E.2d 1194 (2003). In mitigation, Respondent fully cooperated in the disciplinary proceedings against him. We found Respondent's expressions of remorse and contrition to be sincere. While he denied engaging in some of the conduct for which he was convicted, we do not regard his testimony to reflect a lack of remorse or contrition. See In re Wigoda, 77 Ill. 2d 154, 159-161 (1979) (recognizing that a convicted person who sincerely believes he is innocent should not be required to confess guilt in order to be allowed to practice law). Respondent demonstrated that he accepts the validity of the jury verdict and related court decisions despite his disagreement with them. We thus find that Respondent appreciates the gravity of his conduct and respects the system of justice. We believed Respondent when he stated that he had grown from this experience, and is willing "to do what is necessary" to be a good and ethical lawyer. (Tr. 78.) Based upon Respondent's credible testimony, we have no concern that he is likely to commit misconduct again or poses any threat to the public or profession.

We also find mitigating the longstanding service Respondent has provided to the Assyrian/Chaldean community. We have considered the support letters submitted on behalf of Respondent (see Resp. Ex. 1) and accept as credible the testimony of his character witnesses regarding his dedication to the community, commitment to service, integrity, compassion, and other positive character traits. It is clear from that evidence that Respondent has had a significant positive impact on many members of the Assyrian/Chaldean community. Finally, Respondent submitted fraudulent asylum applications on behalf of his clients not to benefit himself but in a misguided effort to increase his clients' chances of obtaining asylum in the United States.

In aggravation, we find that Respondent engaged in a pattern of misconduct involving nine separate clients and occurring over a span of nine years, when he was an experienced attorney and should have known better. Moreover, he was the architect of the asylum-fraud conspiracy. In

addition, Respondent was reprimanded in 2007 for neglecting three client matters, and some of the misconduct in the present matter took place after he was reprimanded, at a time when should have had a heightened sense of awareness of his professional obligations. See In re Storment, 203 Ill. 2d 378, 401, 786 N.E.2d 963 (2002) (a previously disciplined attorney should have a "heightened sense of awareness of the necessity to conform strictly to all of the requirements of the Rules of Professional Conduct"). However, the earlier misconduct was not particularly egregious and differed in nature from the misconduct at issue in this matter. We thus have considered his prior discipline in aggravation but do not give it substantial weight. See In re Marsh, 96 CH632, M.R. 15445 (Feb. 1, 1999) (Review Bd. at 11-13) (declining to give significant weight to prior discipline where the earlier misconduct was years earlier, was not severe, and was dissimilar to the later misconduct).

Despite acknowledging the strong evidence in mitigation, the Administrator asked us to recommend that Respondent be suspended until further order of the Court. We decline to do so. As the Court has noted, "after disbarment, [a suspension until further order] is the most severe [sanction] that we can impose on an attorney," In re Timpone, 208 Ill. 2d 371, 386, 804 N.E.2d 560 (2004). Thus, "[i]n cases in which disbarment is not warranted, a fixed term of suspension should be imposed, unless there are specific, articulable reasons for imposing an indeterminate term, or UFO." In re Baril, 00 SH 14, M.R. 18162 (Sept. 19, 2002) (Review Bd. at 10). These "specific, articulable reasons" include failing to participate in the disciplinary proceedings, the presence of mental health or substance use issues that require ongoing treatment in order for a lawyer to be fit to practice, multiple prior disciplinary actions, the need to make restitution, or, on rare occasion, when disbarment is warranted but significant mitigating factors are present. Id. at 11-12.

The Administrator contends that Respondent should be suspended until further order to ensure that, before he is permitted to practice law again, he will have to demonstrate current knowledge of the law and that sufficient safeguards are in place with respect to his practice such that the misconduct at issue in the criminal case is unlikely to repeat itself. (Tr. 75.) The Administrator's arguments may be appropriate in a reinstatement proceeding, where the petitioner bears the burden to prove that he has been rehabilitated. But we are not persuaded that they provide a compelling reason to impose a suspension until further order under the circumstances of this matter.

Respondent has fully participated and cooperated in this proceeding. While he has one instance of prior discipline, it was different from the current discipline, and the reprimand that he received indicates that his prior misconduct was unacceptable but not particularly egregious. The Administrator presented no evidence of a mental health or substance use issue that would impact Respondent's ability to practice. Restitution is not an issue; Respondent timely paid the fine imposed by the federal court in full. (Tr. 77.) In short, the record is devoid of evidence that would cast doubt upon Respondent's ability or willingness to practice law ethically in the future.

In support of her request for a suspension until further order, the Administrator relies primarily upon In re Broyles, 2010PR00035, M.R. 25239 (May 18, 2012) (suspension of three years and until further order for conspiracy to commit visa fraud). However, as discussed more fully below, the attorney in Broyles had mental health conditions that affected her ability to function professionally, and she was barred from returning to her prior area of practice, immigration law, as a condition of her criminal conviction. Broyles, 2010PR00035 (Hearing Bd. at 39-40). No such factors are present here. We thus find Broyles inapposite to the present matter.

In sum, the Administrator has not articulated valid, factually supported reasons for suspending Respondent until further order of the Court, and we can find none. Rather, we view a

suspension that continues until further order of the Court as unnecessary and punitive, and therefore decline to recommend it.

Weighing the nature of Respondent's misconduct with the mitigation and aggravation present in this matter, we conclude that a three-year suspension is appropriate and supported by precedent. In Broyles, for example, the attorney was convicted of conspiracy to commit visa fraud, for her role in filing fraudulent visa applications for immigrant workers. In mitigation, the attorney had no prior discipline; was not the principal architect of the fraud scheme; was not the primary beneficiary of the fraud and did not significantly profit from it; was not motivated by personal gain; presented character evidence; and deeply regretted her actions and the role she played in her client's criminal activity. In aggravation, the aliens who were recruited by the attorney's client lived in substandard conditions, were not given the jobs that had been promised to them, and were exploited financially; and, while the attorney was not aware of the abuse, she played a role in facilitating the fraud. She was suspended for three years and until further order. The UFO was imposed because the attorney had not practiced law in four years; had only practiced immigration law, which she was barred from doing; suffered from mental health conditions that affected her ability to function professionally; and admitted to the hearing panel that she did not believe that she was fit to practice law.

We also find guidance in In re Ciardelli, 118 Ill. 2d 233, 514 N.E.2d 1006 (1987) (three-year suspension after attorney was convicted of harboring and concealing a fugitive and conspiring to defraud the United States Customs Service); In re Nowak, 62 Ill. 2d 279, 342 N.E.2d 25 (1976) (three-year suspension after attorney was convicted of conspiracy to embezzle monies of a savings and loan association, to make false statements and representations in matters in the jurisdiction of the FDIC, to make false entries in the books of the savings and loan association, and to make false statements to influence the actions of the FDIC); and In re Mehta, 83 Ill. 2d 18, 413 N.E.2d 1265

(1980) (three-year suspension after attorney was convicted of making false statements to an agency of the United States in connection with immigration cases in which he represented Indian citizens who were seeking permanent-resident status in the United States).

Based upon the foregoing cases and considering the relevant circumstances of this matter, we find that a suspension of three years is commensurate with Respondent's misconduct, consistent with discipline that has been imposed for comparable misconduct, and sufficient to serve the goals of attorney discipline and deter others from committing similar misconduct.

In addition, we agree with Respondent that the effective date of his suspension should be made retroactive to the commencement of his interim suspension on September 26, 2016. In In re Scott, 98 Ill. 2d 9, 18-19, 455 N.E.2d 81 (1983), the Court imposed a two-year suspension on an attorney who was convicted of filing a false tax return and had already been suspended on an interim basis for almost two years. In making the suspension retroactive to the date of the attorney's interim suspension, the Court explained that:

> [t]he purpose of disciplinary proceedings is to safeguard the public and maintain the integrity of the legal profession.… The mitigating evidence clearly demonstrates that the purpose of the disciplinary process in this case is fulfilled without a suspension longer than that already served. At the present time the respondent has been suspended from practice because of this conviction for nearly two years. This period of suspension falls within the range of the sanctions usually imposed for similar offenses.

See also In re Belconis, 2019PR00058, M.R. 031823 (Sept. 21, 2023) (three-year suspension, retroactive to the date of attorney's interim suspension about four years earlier); In re Palivos, 05 CH 109, M.R. 26127 (Sept. 25, 2013) (three-year suspension, retroactive to the date of attorney's interim suspension more than seven years earlier).

Under the circumstances of this matter, including the strong mitigating evidence, we believe that the eight-year suspension that Respondent has already served satisfies the purposes of the disciplinary process and that no further period of suspension is necessary. Accordingly, we

recommend that Respondent, Robert William DeKelaita, be suspended for three years, retroactive to the date on which his interim suspension began, September 26, 2016.

Respectfully submitted,

Jose A. Lopez, Jr.
Melisa Quinones
James W. Kiley

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Hearing Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on April 16, 2025.

/s/ Michelle M. Thome
Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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[*] In his opening statement and brief testimony, Respondent appeared to disavow engaging in some of the acts that formed the basis of his criminal conviction. We did not consider this testimony, because, while he may present evidence about the nature of his conduct for sanction purposes, he cannot challenge or impeach the conviction or its factual basis. See In re Wanninger, 2011PR00036, M.R. 25621 (Jan. 18, 2013) (Hearing Bd. at 17-18).