

People v. Michael R. O'Connell. 23PDJ044. August 30, 2023.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended Michael R. O'Connell (attorney registration number 34803) for ninety days, all to be stayed upon a two-year period of probation with conditions. The probation took effect on August 30, 2023.

Beginning in 2020, O'Connell represented a client in two probate cases initiated on behalf of his client's two minor grandchildren. In May 2020, the presiding court appointed O'Connell's client as conservator in each case. As conservator, O'Connell's client was to safeguard the children's share of settlement proceeds from a personal injury case O'Connell had litigated for the children. In September 2020, O'Connell delivered checks to his client for each child's share of the proceeds. Through an oversight, \$95.00 of the funds remained in O'Connell's trust account until June 2023. Though O'Connell's client was to deposit the checks into restricted accounts for the children—and the bank signed forms acknowledging that the funds could not be withdrawn without a court order—the accounts were not actually restricted.

During the representation, O'Connell failed to file a proposed order when he petitioned the court to approve the settlement in one of the probate cases despite the court's order that he do so; failed to file a similar petition in the other case; did not ensure that his client filed bank statements for the children's accounts, even though he informed the court his client would do so; and did not ensure that his client complied with repeated court orders to acknowledge in writing the client's responsibilities as conservator in the cases. O'Connell eventually filed the acknowledgement in one of the matters but never filed it in the other case. Further, O'Connell never moved to withdraw from the probate cases yet failed to appear at two hearings for which his client was ordered to appear. The court sent the orders to appear to O'Connell, who mailed the orders to his client. Because his client also failed to appear at the hearings, the court suspended the client's letters of conservatorship.

In February 2022, the court ordered O'Connell and his client to appear and show cause for failing to comply with orders. At that hearing, O'Connell's client revealed that he had spent portions of the funds personal use. In all, O'Connell's client misappropriated tens of thousands of dollars in settlement proceeds. In August 2023, O'Connell paid \$7,500.00 to each child, providing the payments to the new conservator.

Through this conduct, O'Connell violated Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness in representing a client); Colo. RPC 1.15A(b) (on receiving funds or other property of a client or third person, a lawyer must promptly deliver to the client or third person any funds that person is entitled to receive); and Colo. RPC 8.4(d) (it is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice).

The case file is public per C.R.C.P. 242.41(a).