

People v. Stephen Thomas Williamson. 15PDJ096. May 23, 2016.

Following a sanctions hearing, the Presiding Disciplinary Judge disbarred Stephen Thomas Williamson (attorney registration number 05964). Williamson's disbarment took effect on June 27, 2016.

While serving as special water counsel for two districts, Williamson neglected more than ten cases. In those cases, Williamson failed to appear for numerous status conferences and failed to file court-ordered pleadings. At least two of his client's cases were dismissed, but Williamson did not inform his client of their dismissal. Thereafter, he failed to cooperate with the Office of Attorney Regulation Counsel during their investigation into his misconduct. Williamson's license to practice law was immediately suspended in April 2015 for his failure to cooperate, yet more than two months later he filed a brief with the Colorado Supreme Court on behalf of a client.

Through this misconduct, Williamson violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation); Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 5.5(a)(1) (a lawyer shall not practice law without a law license or other specific authorization); Colo. RPC 8.1(b) (a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority); and Colo. RPC 8.4(d) (a lawyer shall not engage in conduct prejudicial to the administration of justice). Williamson also contravened C.R.C.P. 251.10(a), which requires a lawyer who is under investigation to file a written response to allegations within twenty-one days after receiving notice of the investigation. Please see the full opinion below.

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE</p> <p>1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>	
<p>Complainant: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: STEPHEN THOMAS WILLIAMSON</p>	<p>Case Number: 15PDJ096</p>
<p>OPINION AND DECISION IMPOSING SANCTIONS UNDER C.R.C.P. 251.19(c)</p>	

Stephen Thomas Williamson (“Respondent”) neglected more than ten cases while serving as special water counsel for two districts. In those cases, Respondent contravened the rules of various tribunals by failing to appear for status conferences and failing to file court-ordered pleadings. In at least two matters, his client’s cases were dismissed, but Respondent did not inform his client of their dismissal. Thereafter, he failed to cooperate with the People during their investigation into his misconduct. Yet more than two months after his license to practice law was immediately suspended, he filed a brief with the Colorado Supreme Court on behalf of a client, which constituted the practice of law while suspended.

I. PROCEDURAL HISTORY

Respondent was immediately suspended from the practice of law on April 13, 2015, for his failure to cooperate with the Office of Attorney Regulation Counsel (“the People”) during their investigation.

On November 4, 2015, the People filed a complaint and served it on Respondent.¹ He did not file an answer. The People moved for default judgment on December 23, 2015, but Respondent did not respond. On January 15, 2016, Presiding Disciplinary Judge William R. Lucero (“the Court”) entered default, thus deeming the facts alleged in the complaint admitted and all rule violations established by clear and convincing evidence.²

¹ The People sent the complaint by certified mail to Respondent’s registered home address: 557 W. Cedar Place, Louisville, Colorado 80027-1110. The People also sent the complaint to Respondent’s registered business address: P.O. Box 850, 813 Main Street, Louisville, Colorado 80027.

² See C.R.C.P. 251.15(b); *People v. Richards*, 748 P.2d 341, 346 (Colo. 1987).

On April 5, 2016, the Court held a sanctions hearing under C.R.C.P. 251.15(b). Alan C. Obye appeared on behalf of the People. Respondent did not appear.³ The People offered exhibits 1-3 at the hearing but called no witnesses.

II. ESTABLISHED FACTS AND RULE VIOLATIONS

The Court hereby adopts and incorporates by reference the averments in the admitted complaint. Respondent took the oath of admission and was admitted to the bar of the Colorado Supreme Court on October 16, 1974, under attorney registration number 05964. He is thus subject to the Court's jurisdiction in this disciplinary proceeding.⁴

Respondent is a solo practitioner in Louisville, Colorado. He served as special water counsel to the City of Central ("the City") until September 17, 2014, when the City learned of deadlines that Respondent had missed in water court matters. The City terminated his services in a letter sent from Marcus McAskin, the City's subsequent water counsel. In that same letter, McAskin asked Respondent for a written status report of all active water rights cases as of September 25, 2014, a copy of Respondent's legal services agreement with the City, and to return all of the City's files. Respondent did not respond to McAskin's letter, comply with his requests, or return McAskin's multiple emails and telephone calls.

Respondent also represented Arapahoe County Water and Wastewater Authority ("ACWWA"), along with attorney Brian Nazarenus, in various water law matters throughout Colorado. In November 2014, ACWWA asked Nazarenus to look into Respondent's conduct during the prior two years concerning his representation of ACWWA. Nazarenus uncovered Respondent's misconduct in ten matters:

- In *Concerning the Application for Water Rights: Arapahoe County Water and Wastewater Authority, in Arapahoe County*, case number 08CW139, Respondent failed to file a court-ordered status report, failed to protest the dismissal of this case based on his failure to prosecute, and failed to inform ACWWA that the case was dismissed;
- In *Concerning the Application for Water Rights of Arapahoe County Water and Wastewater Authority, in Larimer County*, case number 11CW189, Respondent failed to respond to the court's order to show cause concerning why the case should not be dismissed and failed to inform ACWWA that the case had been dismissed;
- In *Concerning the Application for Water Rights of Arapahoe County Water and Wastewater Authority, in Douglas and Arapahoe Counties*, case number 96CW1144, Respondent failed to prepare and circulate a proposed water rights decree by July 2014 as ordered by the court;

³ In their hearing brief, the People describe their substantial efforts to apprise Respondent of the sanctions hearing. H'rg Br. at 2.

⁴ See C.R.C.P. 251.1(b).

- In *Concerning the Application for Water Rights of East Cherry Creek Valley Water and Sanitation District in Arapahoe County*, case number 12CW220, Respondent failed to respond to opposing counsel's attempts to contact him in October 2014 regarding settlement and did not appear for a status conference in November 2014;
- In *Denver Application*, case number 12CW5, Respondent did not attend a status conference on October 29, 2014;
- In *Colorado Division of Parks and Wildlife and Parks and Wildlife Board Application*, case number 98CW462, Respondent did not appear at six separate status conferences between 2011 and 2014;
- In *Denver Southeast Suburban Application*, case number 11CW198, Respondent neglected to appear for status conferences in both February 2013 and January 2014;
- In *Parker Water and Sanitation District Application*, case number 03CW428, Respondent failed to attend four separate status conferences set in February and July 2013 and July and November 2014;
- In *Cottonwood Water and Sanitation District Application*, case number 08CW28, Respondent failed to appear at a status conference scheduled on October 30, 2013; and
- In *Cherry Creek Water Users Association Application*, case number 11CW278, Respondent did not attend two status conferences held in February and August 2014.

The ACWWA board terminated Respondent's services in November 2014, after Nazareus discovered the above-mentioned misconduct.

Respondent was immediately suspended from the practice of law on April 13, 2015, for his failure to cooperate during the People's investigation. Thereafter, he did not file an affidavit as required under C.R.C.P. 251.28(d). Two months after his license to practice law had been suspended, Respondent filed an answer brief as the attorney of record for Boulder and Weld County Ditch Company with the Colorado Supreme Court in *Boulder County v. Boulder and Weld County Ditch Company, et al.*, case number 2014SA348.

During their investigation of this disciplinary matter, the People repeatedly requested information from Respondent, but he failed to answer. At the disciplinary hearing, the People indicated that Respondent likewise did not respond to inventory counsel's numerous attempts to contact him. Further, the People stated during the hearing, that inventory counsel reported to them that, as of February 29, 2016, inventory counsel has retrieved and inventoried approximately 1,304 client files from Respondent's office and is in the process of returning those files to Respondent's former clients.

Through this misconduct, Respondent violated seven Rules of Professional Conduct: Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation); Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 5.5(a)(1) (a lawyer shall not practice law without a law license or other specific authorization); Colo. RPC 8.1(b) (a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority); and Colo. RPC 8.4(d) (a lawyer shall not engage in conduct prejudicial to the administration of justice). Respondent also contravened C.R.C.P. 251.10(a), which requires a lawyer who is under investigation to file a written response to allegations within twenty-one days after receiving notice of the investigation.

III. SANCTIONS

The American Bar Association *Standards for Imposing Lawyer Sanctions* (“ABA Standards”)⁵ and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.⁶ When imposing a sanction after a finding of lawyer misconduct, the Court must consider the duty violated, the lawyer's mental state, and the actual or potential injury caused by the lawyer's misconduct. These three variables yield a presumptive sanction that may be adjusted based on aggravating and mitigating factors.

ABA Standard 3.0 – Duty, Mental State, and Injury

Duty: By neglecting over ten cases while representing the City and ACWWA, Respondent violated his duty of loyalty to his clients. He further violated his duties of competence and diligence when he failed to communicate with and perform required work for his clients. In practicing law after he was immediately suspended and in failing to respond to the People's requests for information, he violated his duties to the legal profession.

Mental State: The Court's order of default establishes that Respondent acted knowingly when he disobeyed his obligations under the rules of the tribunal, failed to file the required C.R.C.P. 251.28(d) affidavit after his license was suspended, and neglected to respond to the People's requests for information. The People argue—and the Court agrees—that the complaint supports an inference that Respondent committed the other rule violations with a knowing state of mind.

Injury: When a lawyer abandons his cause, as here, injury to the client and the legal system is patent. Respondent caused actual harm to the City when he failed to respond to successor counsel's requests for a status report and for the return of the City's case files. He also caused serious actual harm to ACWWA and the legal system by failing to take required actions in ten cases, including by failing to appear in court on many occasions, thereby

⁵ Found in ABA *Annotated Standards for Imposing Lawyer Sanctions* (2015).

⁶ See *In re Roose*, 69 P.3d 43, 46-47 (Colo. 2003).

causing at least two of ACWWA's cases to be dismissed. He also caused potentially serious harm to both the City and ACWWA by failing to return the City's files and failing to make numerous court appearances. These actions could have materially impacted both of his clients' legal rights. Respondent caused additional harm to the legal system by failing to cooperate in the People's investigation and by filing an answer brief with the Colorado Supreme Court after his license had been immediately suspended.

ABA Standards 4.0-7.0 – Presumptive Sanction

Disbarment is the presumptive sanction under ABA Standard 4.41 when a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client. This standard is applicable to Respondent's violations of Colo. RPC 1.3 and Colo. RPC 1.4. For Respondent's violations of Colo. RPC 3.4(c) and Colo. RPC 8.4(d), the Court looks to ABA Standard 6.22, which calls for a suspension when a lawyer knowingly violates a court order or rule, causing injury or potential injury to a client or party, or interference or potential interference with a legal proceeding. Likewise, ABA Standard 7.2, which addresses Respondent's violations of Colo. RPC 1.16(a), Colo. RPC 5.5(a)(1), and Colo. RPC 8.1(b), provides for suspension where a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.⁷

Where there are multiple instances of attorney misconduct, the ABA Standards counsel that the ultimate sanction should at least be consistent with the sanction for the most serious disciplinary violation and generally should be greater than the sanction for the most serious misconduct.⁸ Thus, we begin our analysis with disbarment as the presumptive sanction.

ABA Standard 9.0 – Aggravating and Mitigating Factors

Aggravating circumstances include any considerations or factors that may warrant an increase in the degree of discipline to be imposed, while mitigating circumstances may justify a reduction in the severity of the sanction.⁹ In this case, three aggravating factors and one mitigating circumstance are present.

First, Respondent engaged in a pattern of misconduct in more than ten of his clients' cases spanning a two-year period.¹⁰ Second, he engaged in multiple types of misconduct: he failed to diligently represent his clients, failed to inform ACWWA that two of its cases had been dismissed, neglected to return his clients' files, violated the rules of various tribunals, practiced law after his license had been immediately suspended, and failed to respond to information requests from the People.¹¹ Third, Respondent had substantial experience in the

⁷ See also ABA Standards 8.1 (presumptively calling for disbarment when a lawyer knowingly violates a prior disciplinary order or knowingly engages in misconduct similar to prior misconduct that led to a suspension).

⁸ ABA Standards § 2 at 7.

⁹ See ABA Standards 9.21 & 9.31.

¹⁰ ABA Standard 9.22(c).

¹¹ ABA Standard 9.22(d).

law, having practiced for over forty years at the time of his misconduct.¹² The Court is aware of but one mitigating factor: Respondent has no disciplinary record.¹³

Analysis Under ABA Standards and Colorado Case Law

The Court is mindful of the Colorado Supreme Court's directive to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors,¹⁴ recognizing that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."¹⁵

As the Colorado Supreme Court has observed, cases such as this one teeter on the edge of the suspension-disbarment divide, and it is "problematical whether a period of suspension, rather than disbarment, is adequate."¹⁶ Although the People ask the Court to impose a three-year suspension—pointing to several cases in support¹⁷—the Court concludes that Respondent should be disbarred, given the seriousness of his neglect, his abandonment of two clients, and his apparent lack of concern for this proceeding.¹⁸

In his role as special water counsel for the City, Respondent missed several deadlines and thereafter failed to respond to successor counsel's pleas for the return of the City's files. Respondent also failed to honor his duties to attend several of ACWWA's court hearings in a number of matters, and two of ACWWA's cases were dismissed, causing actual serious and potentially serious injury. Further, on numerous occasions, Respondent ignored court orders to show cause and for status reports, demonstrating a flagrant disregard for the court system and resulting in a waste of judicial resources. His decision to practice law after his license was immediately suspended and not to participate here also evinces an apparent "indifference to, and disregard of, [this] disciplinary proceeding[]"¹⁹ and his own license to practice law. Although Respondent has no prior disciplinary history, he has substantial experience—more than forty years—in the practice of law, and the misconduct at issue here reflects particularly poorly on such a long-standing practitioner.

¹² ABA Standard 9.22(i).

¹³ ABA Standard 9.32(a).

¹⁴ See *In re Attorney F.*, 285 P.3d 322, 327 (Colo. 2012); *In re Fischer*, 89 P.3d 817, 822 (Colo. 2004) (finding that a hearing board had overemphasized the presumptive sanction and undervalued the importance of mitigating factors in determining the needs of the public).

¹⁵ *In re Attorney F.*, 285 P.3d at 327 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).

¹⁶ *People v. Rishel*, 956 P.2d 542, 544 (Colo. 1998).

¹⁷ See *People v. Shock*, 970 P.2d 966, 966-68 (Colo. 1999) (suspending an attorney for three years for failing to perform any work for two clients and neglecting to inform them about his administrative suspension); *Rishel*, 956 P.2d at 542 (suspending an attorney for one year and one day for his serious neglect of two clients).

¹⁸ See *People v. Demaray*, 8 P.3d 427, 427 (Colo. 1999) (suspending an attorney for three years for his neglect of one client's criminal matter and his failure to respond to the People's investigation where he had no prior discipline and inexperience, but noting that disbarment arguably applied under ABA Standard 4.41 because the attorney caused potentially serious harm); *People v. Zimmermann*, 960 P.2d 85, 88 (Colo. 1998) (disbarring an attorney who was subject to a disciplinary suspension yet accepted fees from clients and engaged in other misconduct).

¹⁹ *People v. Crimaldi*, 804 P.2d 863, 865 (Colo. 1991).

Here, given the egregious nature of Respondent's misconduct and the serious actual injury and the potential injury his misconduct could have caused, the number of aggravating factors and lack of significant mitigating factors, the relevant Colorado Supreme Court case law, and Respondent's failure to participate in this proceeding, the Court exercises its discretion to find that disbarment is warranted here.

IV. CONCLUSION

Lawyers, as officers of the court, must abide by their duties to honor the directives of tribunals before which they practice. When they fail to do so, they undermine the public's confidence in the legal profession and the legal system. Clients entrust their lawyers to act as their representatives in court proceedings, which necessarily entails diligent representation and close communication. Here, Respondent breached his obligations to his clients and the courts by failing to appear in numerous matters and to prepare submissions as ordered by various courts, prejudicing the administration of justice and causing his clients actual and potentially serious injury. He further ignored his responsibilities to the legal profession by neglecting the People's call for information and practicing law while immediately suspended.

V. ORDER

The Court therefore **ORDERS**:

1. **STEPHEN THOMAS WILLIAMSON**, attorney registration number 05964, is **DISBARRED** from the practice of law in the State of Colorado. The **DISBARMENT SHALL** take effect only upon issuance of an "Order and Notice of Disbarment."²⁰
2. Respondent **SHALL** promptly comply with C.R.C.P. 251.28(a)-(d), if applicable.
3. The parties **MUST** file any application for stay pending appeal with the Court **on or before June 13, 2016**. No extensions of time will be granted. Any response thereto **MUST** be filed within seven days.
4. Respondent **SHALL** pay the costs of these proceedings. The People **SHALL** file a "Statement of Costs" **on or before May 31, 2016**. Any response thereto **MUST** be filed within seven days.

DATED THIS 23rd DAY OF MAY, 2016.

WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

²⁰ In general, an order and notice of sanction will issue thirty-five days after a decision is entered pursuant to C.R.C.P. 251.19(b) or (c). In some instances, the order and notice may issue later than thirty-five days by operation of C.R.C.P. 251.27(h), C.R.C.P. 59, or other applicable rules.

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