

*People v. Mark Hurlbert*, 24PDJ012, September 30, 2024.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and publicly censured Mark Hurlbert (attorney registration number 24606). The public censure, which takes into account significant mitigating factors, is effective as of September 30, 2024.

Hurlbert was a contract deputy district attorney assigned to a high-profile first-degree murder case. Over the course of the case, the presiding judge issued a series of unfavorable rulings for the prosecution. Less than two months before the case was to go to trial, the elected district attorney circulated to the prosecution team a link to an online petition, which called for an investigation and the possible removal of the judge due to an alleged conflict of interest centering on the judge's former spouse. Hurlbert was concerned that the allegations could, if true, amount to the judge's undisclosed conflicts of interest. Rather than raise the matter with the judge or with the opposing party, however, Hurlbert endorsed the proposal of another member of the prosecution team that the judge's former spouse be interviewed regarding the allegations. Even as the prosecution team discussed dismissing the case, Hurlbert advocated for investigating the judge's state of mind regarding potential conflicts that could have informed his rulings in the matter. Hurlbert then learned that the elected district attorney planned to have her office's investigator conduct the interview. Hurlbert, who had more experience as a prosecutor than the elected district attorney, had concerns that the investigation should be independent. Even so, he failed to advise the district attorney to use an independent entity for the investigation. Nor did he take affirmative steps to deter or prevent the district attorney from proceeding with the interview. Rather, Hurlbert discussed the interview with the district attorney office's investigator.

Though this reckless conduct, Hurlbert violated Colo. RPC 8.4(a) (it is professional misconduct for a lawyer to attempt to violate the Rules of Professional Conduct) 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).