

People v. Juan-Alberto Garcia. 16PDJ002. January 12, 2016.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Juan-Alberto Garcia (Attorney Registration Number 34618) for one year and one day, with six months to be stayed upon the successful completion of probation with conditions including practice monitoring. Garcia's suspension will take effect on February 16, 2016.

Garcia committed misconduct in six client representations:

- In an appeal of a criminal conviction as alternate defense counsel ("ADC"), Garcia did not meet with his client, failed to timely send his client copies of briefs, and failed to respond to his client's requests for information.
- In a trial-level felony drug distribution case, Garcia deposited an unearned flat fee into his operating account, not his trust account. He failed to ensure that his law partner appeared for his client's sentencing hearing. He promised to meet his client to discuss post-conviction options, but that meeting never happened. And he states that he sent his client a withdrawal letter, but the client denies receiving the letter.
- In a post-conviction case, Garcia filed a Rule 35(c) petition before meeting or having any substantive discussion with the client. He failed to keep his client apprised of the case's status. Garcia also failed to return the client's file after the petition was denied.
- In a post-conviction matter for a pro bono client, Garcia filed a notice of appeal but erroneously identified himself as ADC, did not pay the docket fee, and did not submit necessary documents. He failed to respond to the court's order to show cause, and the court dismissed the appeal. Further, Garcia did not communicate with his client.
- In a DUI defense case, Garcia deposited two unearned fee payments into his operating account. He did not communicate adequately with the client. He did not file a motion to change venue, as he had promised. He did not instruct the client to appear at a pre-trial conference, and a bench warrant issued for the client's arrest. The same client asked Garcia to file a petition to seal some criminal records, and Garcia did so. But he did not alert the client of the hearing date on the petition, even when the client inquired about it, and he then failed to appear for the hearing himself. He did not return other calls and emails about the matter.
- In post-conviction proceedings in three criminal matters for the same client, Garcia did not keep adequate records of where he deposited his client's payments. He failed to appear at a subpoena return hearing and a later show cause hearing ordered by the court. The court dismissed the client's Rule 35(c) petition.

Through this conduct, Garcia violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)-(b) (a lawyer shall reasonably communicate with the client); Colo. RPC 1.5(f) (a lawyer does not earn fees until a benefit is conferred on the client or the lawyer performs a legal service); Colo. RPC 1.15(k) (a lawyer shall maintain adequate accounting records); and Colo. RPC 8.4(d) (a lawyer shall not engage in conduct prejudicial to the administration of justice).