

People v. Nathan Bret Kennedy. 22PDJ035. June 22, 2022.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended Nathan Bret Kennedy (attorney registration number 45061) for five months. The suspension took effect on June 22, 2022. As a condition of reinstatement to the practice of law in Colorado, Kennedy must pass ethics school and complete a self-assessment program during his period of suspension.

Beginning in 2017, Kennedy litigated for two clients a case for unpaid wages against the clients' former employer. The court closed the case in November 2018 after Kennedy failed to follow the court's case management and delay reduction orders directing the parties to set a pretrial conference and jury trial. In February 2019, Kennedy moved to reopen the case. But Kennedy's motion did not explain why he failed to comply with the two orders, and he never replied to the response opposing his motion. The court denied Kennedy's motion the next month. In May 2019, one of Kennedy's clients asked him for an update on the case, and Kennedy suggested that they schedule a phone call. According to the client, it was Kennedy's first communication with him since November 2018, before the case had been dismissed.

In another case, Kennedy represented a client at a criminal trial in May 2021. On the first day of the trial, Kennedy requested a mistrial, telling the judge that he could not effectively represent his client because he had not seen the prosecution's exhibits before trial. But the prosecution had sent Kennedy its discovery via compressed file in October 2020, and Kennedy had downloaded the file at least three times. The court declared a mistrial based on Kennedy's ineffective assistance and reset the matter for a later date, stating in its minute order that the mistrial was not the fault of the prosecution.

In a third matter, Kennedy agreed to represent two parents in a dependency and neglect case. Kennedy obtained informed, written consent from each parent, who waived the potential conflicts arising from the dual representation. Kennedy appeared on behalf of the parents at a temporary custody hearing; the presiding magistrate ordered, however, that Kennedy could not represent both parents, as representing both parents in a dependency and neglect case is prohibited dual representation.

Through this conduct, Kennedy violated Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer must keep a client reasonably informed about the status of the matter); Colo. RPC 1.7(a)(2) (a lawyer must not represent a client if the representation involves a concurrent conflict of interest); and Colo. RPC 8.4(d) (a lawyer must not engage in conduct prejudicial to the administration of justice).

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