

People v. James W. Pengilly. 18PDJ074. December 3, 2018.

The Presiding Disciplinary Judge approved the parties' stipulation to reciprocal discipline and suspended James W. Pengilly (attorney registration number 27144) for six months and one day with the requirement that he petition for reinstatement in Colorado, if at all, under C.R.C.P. 251.29(c). His suspension takes effect on January 7, 2019. To be reinstated, Pengilly will bear the burden of proving by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law.

This reciprocal discipline case arose out of discipline imposed in Nevada. On September 7, 2018, the Nevada Supreme Court entered an order suspending Pengilly for six months and one day, with the automatic requirement that he petition for reinstatement. This discipline was premised on Pengilly's conduct at a plaintiff's deposition where Pengilly was representing himself as the defendant. The Nevada Supreme Court determined that during the deposition Pengilly used vulgarities, called the deponent derogatory names, aggressively interrupted the deponent and opposing counsel, answered several questions for the deponent, and repeatedly made inappropriate statements on the record. Further, he asked the deponent if he was "ready for it" while positioning his hand near his hip, and soon thereafter displayed to the deponent and opposing counsel a firearm he had holstered on his hip. As a result, the deposition was cancelled and the underlying litigation was placed on hold.

Pengilly's misconduct constitutes grounds for reciprocal discipline under C.R.C.P. 251.5 and 251.21. The case file is public per C.R.C.P. 251.31.