

People v. Francisco E. Ruybalid IV. 13PDJo65, consolidated with 14PDJo64. January 28, 2015.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Francisco E. Ruybalid IV (Attorney Registration Number 18448) for six months, all stayed upon the successful completion of a twenty-three-month period of probation. The probation, which took effect January 28, 2015, contains the following conditions: Ruybalid must not violate the Rules of Professional Conduct, he must attend a one-day ethics school program, and he must abide by practice audit and monitoring conditions for so long as he is a District Attorney. He also must pay \$23,043.65 in costs. If Ruybalid violates any probationary conditions, he will be suspended for six months and may only return to the practice of law if he petitions for reinstatement under C.R.C.P. 251.29(c); in such a proceeding, he 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.

Ruybalid is the elected District Attorney for the Third Judicial District, which includes Las Animas County and Huerfano County. In eight criminal prosecutions between 2010 and 2013, he violated Colo. RPC 1.3, which requires lawyers to act with reasonable diligence and promptness, and Colo. RPC 8.4(d), which provides that lawyers shall not prejudice the administration of justice. By way of illustration, Ruybalid did not ensure that a sufficient flow of information was maintained between investigative personnel and his own office, neglected to give defense counsel advance notice of ballistic testing, neglected to give the defense expert disclosures, did not timely determine what information should be disclosed to the defense, and did not make appropriate and timely discovery disclosures. In some instances this conduct led the courts to impose sanctions, while in other instances Ruybalid moved to dismiss the underlying charges before sanctions hearings could take place. Ruybalid's conduct required the courts to expend resources in reviewing sanctions motions and issuing sanctions orders, and he caused delay in some of the cases. In at least one instance, he moved to dismiss a case because he believed a discovery sanction prevented him from proving the defendant's guilt.

In addition, Ruybalid violated Colo. RPC 5.1(b) by failing to make reasonable efforts to ensure that his subordinate attorneys conformed to the Rules of Professional Conduct. For most of the 2009-2014 period, Ruybalid's office consisted solely of Ruybalid himself, one assistant district attorney, and one deputy district attorney. During that timeframe, Ruybalid did not properly supervise and train his subordinates. The deputies had scant experience when Ruybalid hired them, yet they began handling trials without reasonable supervision. Ruybalid's subordinates in a number of cases did not ensure that a sufficient flow of information was maintained between investigative personnel and the prosecutor's office, neglected to produce impeachment information, did not comply with the Victim's Rights Act, disobeyed court orders, and did not make appropriate and timely discovery disclosures.

Ruybalid's mental state in the misconduct described above ranged from negligent to reckless to knowing. As part of the conditional admission of misconduct, the parties stipulated to dismissal of twenty-three separate claims of misconduct. These claims had

alleged violations of Colo. RPC 1.1 (a lawyer shall provide competent representation to a client); Colo. RPC 3.4(a) (a lawyer shall not unlawfully obstruct another party's access to evidence); Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 3.8(d) (a prosecutor in a criminal case shall not intentionally fail to timely disclose evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense); and Colo. RPC 5.1(c)(1) (a lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved).