

People v. Nathan Derek Vanderhoofven. 16PDJo76. August 18, 2017.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Nathan Derek Vanderhoofven (attorney registration number 37104), effective September 22, 2017. To be reinstated, Vanderhoofven will bear the burden of proving by clear and convincing evidence that he has complied with disciplinary orders and rules, he is fit to practice law, and he has been rehabilitated from the issues underlying his misconduct. If reinstated, Vanderhoofven will be required to submit to practicing monitoring for two years upon his return to private practice.

Vanderhoofven committed misconduct in three similar client matters. In the first matter, an immigration client who wished to appeal the denial of his asylum application contacted a "legal process outsourcer," who contracted with—but was not employed by—Vanderhoofven to write the appeal on the client's behalf. Vanderhoofven told the outsourcer that he required a \$2,000.00 retainer. The client paid the retainer, but Vanderhoofven did not provide the client with any writing stating the basis or rate of his fee. Nor did he ever meet or speak with the client; all his communications with the client were routed through the outsourcer. The outsourcer advised Vanderhoofven to file an appeal. Vanderhoofven did so, though he had never drafted such an appeal and admittedly did not file a "complete appeal" because he lacked sufficient funds. The appeal was unsuccessful. When the client asked for return of the file, Vanderhoofven gave the file to the outsourcer, who left the file for the client on the sidewalk at a designated meeting spot. The client first learned of Vanderhoofven's involvement in his case when reading the appeals decision.

In two other matters, asylum seekers enlisted the assistance of nonlawyer paralegals who regularly contracted with—but did not work for—Vanderhoofven. The paralegals met with each of the clients and filled out their asylum application forms. Vanderhoofven did not meet with the clients, yet he reviewed and signed the forms. He did not provide either client a written statement about his fees. The clients' asylum forms were grossly deficient, as were work permit applications that Vanderhoofven signed. Vanderhoofven first met the clients in immigration court, but he could not answer the clients' questions because he does not speak Spanish. Because Vanderhoofven maintained no accounting records or receipts, he does not know how much the clients paid, though the sum was likely more than \$2,000.00 per client. Each client was informed that the fees they paid were non-refundable. After February 2016, Vanderhoofven and the paralegals stopped returning the clients' calls, and the clients eventually hired new counsel. Vanderhoofven never provided the clients an accounting.

In this matter, Vanderhoofven violated Colo. RPC 1.1 (a lawyer shall competently represent a client); Colo. RPC 1.4(a) (a lawyer shall reasonably communicate with the client); Colo. RPC 1.5(b) (a lawyer shall inform a client in writing about the lawyer's fees and expenses within a reasonable time after being retained, if the lawyer has not regularly represented the client); Colo. RPC 1.5(g) (a lawyer shall not charge nonrefundable fees or retainers); Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation, including by returning any papers and property to which the client is

entitled); Colo. RPC 5.3(b) (a lawyer with direct supervisory authority over a nonlawyer employee shall make reasonable efforts to ensure that the employee's conduct is compatible with the lawyer's professional obligations); Colo. RPC 5.4(a) (a lawyer shall not share legal fees with a nonlawyer); Colo. RPC 5.5(a)(3) (a lawyer shall not assist a person in the performance of the unauthorized practice of law).