

COLORADO OFFICE OF THE PRESIDING DISCIPLINARY JUDGE

People v. Holcomb

428 P.3d 739 (Colo. O.P.D.J. 2018) · Decided May 18, 2018

SUMMARY

The Colorado Presiding Disciplinary Judge considered disciplinary charges against attorney Shannon Charles Holcomb arising from misconduct in six client matters. The court found violations involving neglect, inadequate communication, abandonment, conversion of unearned fees, disobedience of court orders, and improper limitation of malpractice liability. Holcomb was disbarred and ordered to comply with applicable winding-up requirements and pay proceeding costs.

CASE DETAILS

COURT	Colorado Office of the Presiding Disciplinary Judge
WRITING FOR THE COURT	William R. Lucero; William R. Lucero, Presiding Disciplinary Judge
JURISDICTION	Colorado
DECIDED	May 18, 2018
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding arising from the People's complaint against Shannon Charles Holcomb. After Holcomb failed to answer, the Presiding Disciplinary Judge entered default, deemed the complaint's factual allegations admitted, and held a sanctions hearing at which Holcomb appeared pro se.
PRECEDENTIAL VALUE	Published disciplinary decision; persuasive or precedential value limited to the disciplinary context.

TOPICS

administrative law

remedies

equitable relief

PRACTICE AREAS

legal ethics and professional responsibility

attorney discipline

disciplinary sanctions

client funds and fee disputes

QUESTIONS PRESENTED

1. Whether Holcomb established a valid basis to set aside the entry of default based on excusable neglect.

2. Whether Holcomb was entitled to a continuance of the sanctions hearing.
3. What sanction was appropriate for Holcomb's admitted pattern of neglect, abandonment, failure to communicate, failure to obey court orders, improper release agreement, and knowing conversion of client funds.

HOLDINGS

1. Holcomb failed to establish a valid basis to vacate the entry of default, and the default therefore remained in effect.
2. The court properly denied Holcomb's oral motion for a continuance of the sanctions hearing.
3. Disbarment was warranted because Holcomb knowingly converted unearned client fees, abandoned clients, and engaged in a pattern of serious misconduct causing actual or potential injury.

KEY QUOTATIONS

"This pattern of misconduct warrants disbarment." (741)

"Absent significant mitigating factors, disbarment is the presumed sanction in Colorado for such knowing conversion of client funds." (747)

"Case law is clear that when knowing conversion is coupled with abandonment of clients, disbarment is warranted." (747)

"The Court concludes that Respondent's license to practice law must be revoked." (748)

FACTUAL BACKGROUND

In six client matters, Holcomb repeatedly failed to communicate with clients, neglected or abandoned legal matters, failed to comply with court orders, and failed to provide accountings or refunds of unearned fees. He knowingly converted \$3,500 from each of Lisa Fields and Brent Fletcher and \$5,000 from Erin Harshell. He also entered an agreement with Michelle Eppler prospectively releasing malpractice and disciplinary claims without advising her to obtain independent counsel. Holcomb had a prior public censure and offered personal and emotional problems as mitigation.

PROCEDURAL HISTORY

The Colorado Supreme Court immediately suspended Holcomb on June 13, 2017. The People filed a disciplinary complaint on July 21, 2017. Holcomb failed to answer despite receiving notice and being informed that he could submit a handwritten response, so the court entered default on October 31, 2017. At the April 20, 2018 sanctions hearing, the court denied Holcomb's motions to set aside default and for a continuance, received the People's exhibits, heard Holcomb's testimony, and imposed disbarment.

DISPOSITION

other

CASES CITED

- People v. Richards, 748 P.2d 341, 346 (Colo. 1987)
- In re Roose, 69 P.3d 43, 46-47 (Colo. 2003)
- In re Attorney F., 285 P.3d 322, 327 (Colo. 2012)
- In re Fischer, 89 P.3d 817, 822 (Colo. 2004)
- In re Rosen, 198 P.3d 116, 121 (Colo. 2008)
- People v. Varallo, 913 P.2d 1, 10-12 (Colo. 1996)
- People v. Coyne, 913 P.2d 12, 14 (Colo. 1996)
- People v. Shock, 970 P.2d 966, 968 (Colo. 1999)
- People v. Stevenson, 979 P.2d 1043, 1045 (Colo. 1999)
- People v. Townshend, 933 P.2d 1327, 1329 (Colo. 1997)
- People v. Kuntz, 942 P.2d 1206, 1208-09 (Colo. 1997)

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