

People v. Mitchell Dean Smith. 22PDJ015. July 28, 2022.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended Mitchell Dean Smith (attorney registration number 36030) for one year and one day. The suspension took effect on July 28, 2022. To be reinstated to the practice of law in Colorado, Smith must prove by clear and convincing evidence that he has been rehabilitated, has complied with all disciplinary orders and rules, and is fit to practice law.

In May 2020, a client hired Smith to represent her in a domestic relations matter. The client paid Smith a retainer, but Smith did not endorse the check until November 2020. The check cleared into Smith's operating account; he never put the retainer into his trust account. Per Smith's billing statement, he failed to safeguard in his trust account some portion of the client's funds.

Throughout the representation, Smith had very little communication with the client. He regularly failed to respond to her requests for updates and for information about upcoming events, and his infrequent replies were largely unresponsive. Smith failed to inform the client about major developments in her case.

Smith also failed to diligently work on his client's matter. He failed to prepare for or participate in mediation. He never prepared, filed, or provided opposing counsel with his client's sworn financial statement. Nor did Smith provide his client with the opposing party's mandatory financial disclosures. He failed to prepare for his client's permanent orders hearing and never gave his client the final orders, though she asked for them on at least two occasions.

In early 2021, a dispute about dependency tax exemptions arose. Smith failed to communicate with opposing counsel about the dispute, and opposing counsel filed an emergency motion to enforce the permanent orders. Smith never read the motion or sent his client the motion. The client later filed an amended tax return, but Smith failed to provide a copy to opposing counsel. Smith did not appear for the hearing on the motion and never read the order issued after the hearing, which directed the client to respond to opposing counsel's request for sanctions. When the client failed to submit a response, the court entered a sanction of more than \$2,000.00 against her. The client confronted Smith about the sanction, and Smith promised to investigate, but he never responded again. Smith later refused to participate in the disciplinary process.

Through this conduct, Smith 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 shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for information); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation); Colo. RPC 8.1(b) (a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority); and Colo. RPC 8.4(d) (providing that it is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice).

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