

People v. Phillip F. Malouff Jr. 20PDJ055. August 25, 2020.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and publicly censured Phillip F. Malouff Jr. (attorney registration number 09076).

In November 2016, Malouff was present in a courtroom while a magistrate observed another judge's docket. As the magistrate walked toward the bench, Malouff asked her to approach him. When she did, Malouff stated, "When you get back from your vacation I better be able to see your tan lines." He punctuated his statement with a wink. A month later, Malouff entered the magistrate's chambers, upset about some scheduling matters. When she instructed Malouff to speak with someone else, he stated, "Ask your husband a question for me when you get home tonight. Ask him what it's like to have relations with someone who wears the robe. It has always been something I've wanted to do, but there have never been any women judges until now."

During the investigation of these two incidents by the State Court Administrator's Office, Malouff met with the Office's Chief of Staff and Director of Human Resources, the Court Executive, and the Chief Judge. At the meeting, he was informed that his statements were unprofessional and violated the Colorado Judicial Department's Anti-Harassment and Anti-Discrimination Policy. He then wrote a letter to the meeting participants expressing his remorse, and the matter was closed.

In July 2019, Malouff met with a clerk and a judicial assistant prior to a termination of parental rights hearing. Malouff asked the judicial assistant to check whether the mother in the case had an outstanding warrant, to which she replied, "Yes." Malouff then stated, "Yes, she does have a warrant? Yes, I can check." The clerk responded, "She is good, but she needs time to check." Malouff then replied, "Her husband told me that she is good." Prior to that incident, the judicial assistant recalled speaking to Malouff on the phone where she set a case for a Friday at 8:00 a.m. Malouff asked her if he would get to spend the night with her since he had an early morning meeting at the courthouse. Malouff has since undergone online sensitivity training and engaged in counseling regarding appropriate boundaries. He remains in counseling.

Through this conduct, Malouff violated Colo. RPC 8.4(g) (in representing a client, a lawyer shall not engage in conduct that exhibits or is intended to appeal to or engender bias against a person based on the person's race, gender, religion, national origin, disability, age, sexual orientation, or socioeconomic status, when such conduct is directed to anyone involved in the legal process).

The case file is public per C.R.C.P. 251.31.