

*People v. Justin Herrera. 22PDJ019. May 4, 2022.*

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and addendum thereto and suspended Justin Herrera (attorney registration number 42513) for six months, all to be stayed upon his successful completion of a two-year probationary period with conditions.

In 2017, a client hired Herrera to represent him in immigration removal proceedings. Herrera filed an asylum application for the client in late February 2018. He did not communicate further with the client until the month of the asylum hearing three years later. He did not prepare the client for the hearing because he believed the client was amenable to voluntary departure or deportation. Herrera told the client that he was unlikely to be granted asylum, and he advised him to withdraw his application and accept voluntary departure or deportation. On the day of the hearing, he repeated this advice and notified the court that the client did not wish to proceed. But the judge indicated that the claim was not meritless and told the client that she would hear his story. The hearing went forward, but Herrera was not prepared to present the case. He did not think to request a continuance. Herrera then told the client that the prosecution would raise his felony conviction and warned him that his best avenue to maximize his stay in the country was to agree to deportation. The client agreed, believing this was his only option. Herrera did not inform him that if his asylum was denied he could appeal. Even though Herrera told the client that it could take up to two years to be deported, the client received a letter within weeks of the hearing demanding that he surrender the next month.

In a second immigration matter, Herrera agreed in 2016 to help a father and son seek asylum. Herrera failed to advise them that the son could apply for special immigration juvenile status. Herrera also agreed to help two other family members, who each wanted their own asylum hearing. Though each member had unique grounds for asylum, Herrera convinced them that their cases would be strongest if combined with the father's matter. After another family member retained Herrera, he consolidated the applications for hearing. He did not disclose to his clients that his representation could pose a conflict of interest, and he did not obtain a waiver. During the hearing, only two family members testified due to time constraints. The family was denied asylum and retained Herrera to appeal. He discussed his concerns about the appeal with the father only. Then, without securing consent from any of his clients, he withdrew the appeal and told the family that their appeal had been denied.

Through this conduct, Herrera violated Colo. RPC 1.1 (a lawyer must competently represent a client); Colo. RPC 1.2(a) (a lawyer must abide by the client's decisions concerning the objectives of a case and consult with the client about the means to achieve the objectives); Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(1)-(3) (a lawyer must promptly inform the client of a decision requiring informed consent, must reasonably consult with the client about the means to achieve the client's objectives, and must reasonably inform the client about the status of the matter); Colo. RPC 1.4(b) (a lawyer must explain a matter so the client can make informed decisions regarding the representation); Colo. RPC 1.7(a)(2) (a lawyer must not represent a client if the representation involves a concurrent conflict of interest); Colo. RPC 1.16(a)(1) (a lawyer must withdraw from representation if the representation will result in ethical violations); and Colo. RPC 8.4(c)

(providing that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

The case file is public per C.R.C.P. 242.41(a)(2).