

People v. Matthew David Keller. 24PDJ001. January 10, 2024.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended Matthew David Keller (attorney registration number 43584) for six months, all to be stayed pending Keller's successful completion of a two-year period of probation, with conditions. The probation took effect January 10, 2024.

In December 2019, Keller entered into a contract with Alternative Defense Counsel ("ADC") for \$7,000.00 to represent a client in a Rule 35(c) petition in a felony criminal matter. This was Keller's first time representing a client in a Rule 35(c) petition in a felony case. Keller met with the client on January 7, 2020, after cursorily reviewing some discovery. The following day, Keller withdrew \$431.60 from his firm's trust account to pay himself for his work on the case as of that date, believing he had received funds from ADC and had deposited them in trust. But Keller did not, in fact, receive a portion of ADC's fee until January 13, 2020. Though those funds from ADC were considered earned per the ADC contract, Keller did not replace the \$431.60 he took from his trust account as partial payment until 2022, when he discovered the error after inquiry by disciplinary authorities.

The presiding court directed Keller to file status reports every thirty days. But Keller failed to timely file two reports in spring 2020. In April 2020, the court ordered him to file his overdue report. Keller complied but then failed to file a status report in May 2020. In a status report in early autumn 2020, Keller requested another sixty days to file either an amended Rule 35(c) petition or a notice that his client abandoned the petition. The court granted the request.

Keller informed his client in October 2020 that he did not think there were any viable Rule 35(c) claims to pursue. But the client did not want to abandon the petition. Keller did not know how to move forward, but he did not seek help with the case. Between October 2020 and May 2021, Keller did not communicate with the client. In May 2021, Keller sent the client a letter, vowing to file a motion that summer. But Keller did not do so. Nor did he seek guidance or assistance in handling the matter. Keller ended his ADC contract in December 2021 and later admitted to abandoning the case. He moved in September 2022 to reopen the client's case, which the court granted. Keller also sent the client an apology letter and promised to finish the Rule 35(c) petition. But Keller did not thereafter visit the client or finish the petition. In December 2022, Keller withdrew from all of his cases and changed his licensure status to inactive.

Through this conduct, Keller violated Colo. RPC 1.1 (a lawyer must competently represent a client); Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(2)-(4) (a lawyer must reasonably consult with a client about the means by which the client's objectives are to be accomplished, keep a client reasonably informed about the status of the matter, and promptly comply with reasonable requests for information); and Colo. RPC 1.15A(a) (a lawyer must hold client property separate from the lawyer's own property).

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