

People v. Alonzo Christopher Payne. 22PDJ033. September 21, 2022.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and disbarred Alonzo Christopher Payne (attorney registration number 38366). The disbarment will take effect on October 26, 2022.

Payne was the elected district attorney in the 12th Judicial District from January 2021 to July 2022, when he resigned. While in office, Payne failed to diligently supervise his employees, including an assistant district attorney who Payne later fired because of complaints about the lawyer's conduct when performing his job duties. In mid-2021, a Victim Rights Act ("VRA") subcommittee began investigating Payne's office, citing concerns that the office failed to keep victims informed about their cases and failed to consult with victims about plea deals and dismissals. The investigation also identified instances in which employees from Payne's office ignored, belittled, and shouted at victims. The VRA subcommittee recommended that Payne's office take actions that included VRA training. During the training, Payne's employees were unruly, directing foul language at the presenters and walking out of the training. Payne's office did not resolve the VRA complaints, which were ultimately referred to the governor, who appointed the office of the attorney general to investigate. In July 2022, the attorney general appointed a monitor to review if Payne's office was meeting its responsibilities under the VRA.

Under Payne, the 12th Judicial District Attorney's office accumulated a significant backlog of cases and failed to act for months on warrants involving serious crimes and domestic violence. Payne's failure to prosecute defendants had a negative effect on law enforcement's and the public's willingness to report crimes, harming law enforcement efforts and the community.

Days before a jury trial in early 2022, Payne told a named victim that his office had been unable to serve a police officer to appear at trial. Payne told the victim that pursuing the case would be futile without the officer's testimony, and the victim acquiesced to Payne dismissing the case. But Payne's representation was false: his office had served the officer that morning. In the motion to dismiss, Payne falsely stated that the victim was unwilling to testify at trial. Payne did not correct his misstatements to the court or to the victim.

Also in early 2022, Payne prosecuted a case for conspiracy to commit first-degree murder. In March, he told an employee in his office that the Colorado Bureau of Investigation ("CBI") wanted the case to be dismissed. This statement was untrue. The prosecutor contacted the CBI agent involved in the case, who informed her that he had not told Payne that the CBI wanted the case dismissed.

A different matter was set for a jury trial in April 2022. Payne dismissed the case on the first day of the trial, purportedly because evidence favorable to the defense had not been disclosed. But Payne knew of the issue at the latest nearly a week before the trial was to begin and had not indicated to the court or the named victims that he would dismiss the case. He even filed jury instructions four days before the first day of trial. According to the minute order from the hearing, the court found Payne to be disingenuous as to the reasons for the dismissal. At the time Payne dismissed the case, 100 jurors were waiting to serve.

That same month, Payne participated in setting a preliminary hearing in another matter. The judge traveled eight hours to convene the hearing. On the day of the preliminary hearing, however, no prosecutor from Payne's office appeared. A prosecutor eventually joined via Webex after the court clerk contacted Payne's office, but the prosecutor was not prepared to proceed. The hearing was reset. The judge traveled another four hours to hold the hearing, during which the parties waived the hearing for a plea offer. Payne knew the day before the hearing that the defendant planned to waive the preliminary hearing, but he took no steps to notify the judge; had Payne alerted the judge, she would not have needed to travel to the hearing.

In 2022, Payne did not properly introduce hearsay statements from a minor victim in a juvenile sexual assault case. He then failed to appear for a hearing to address the child hearsay statements, assigning the matter to another prosecutor who was scheduled to handle a different docket that day and had not been prepared to address the child hearsay issue. Payne also made false statements, or failed to disclose to the court and the named victim and her family accurate information about the status of the case and reasons for the dismissal.

Finally, in 2022, during a political campaign to recall Payne from office, Payne began an investigation and filed criminal charges against the previous district attorney, a political rival and critic of Payne. Despite this antagonistic relationship, Payne did not seek an outside law enforcement agency or special prosecutor to oversee the investigation or make charging decisions. Ultimately, Payne's actions prevented the court from making a probable cause determination in the case.

Through this conduct, Payne 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 1.7(a)(2) (a lawyer must not represent a client if the representation involves a concurrent conflict of interest); Colo. RPC 3.3(a)(1) (a lawyer must not knowingly make a false statement of material fact or law to a tribunal); Colo. RPC 4.1(a) (a lawyer must not, in the course of representing a client, knowingly make a false statement of material law or fact to a third person); Colo. RPC 5.1(a) (a partner should ensure the partner's firm implements measures giving reasonable assurance that all lawyers in the firm comply with the Rules of Professional Conduct); Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Colo. RPC 8.4(d) (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).