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Supreme Court suspends Albuquerque attorney from practicing law

SANTA FE – The state Supreme Court has suspended an Albuquerque attorney for misconduct in failing to competently and diligently defend a client, who was imprisoned for three years before his conviction was overturned because the ineffective assistance of his lawyer denied him a fair trial.

"We cannot turn a blind eye to egregious attorney misconduct that rises to such a level as to deprive a client of due process under the law," the Court said in a unanimous opinion written by Justice Barbara J. Vigil.

Rafael Padilla, who has practiced law for 36 years, did not contest the professional misconduct alleged in the disciplinary case brought against him by the Disciplinary Board of the Supreme Court. The board independently investigates allegations of misconduct by attorneys, and its recommendations for disbarment, suspension or censure of an attorney go to the Court for a final decision.

Starting in 2013, Padilla represented a man charged with child sex crimes and bribery of a witness. His client's convictions were overturned by the Court of Appeals in 2018.

In its opinion, the Supreme Court outlined several instances of misconduct by Padilla during the trial, including that he failed to investigate evidence that potentially could have exonerated his client. Padilla also did not take the procedural steps needed to introduce evidence at trial "that he could have used to question the alleged victim's credibility," the Court said.

"Padilla's recurrent failure to provide Defendant with competent and diligent representation deprived his client of a fair trial," the Court stated.

Padilla was indefinitely suspended from practicing law for at least one year, starting Aug. 9, 2019. The justices suspended six months of the suspension and placed Padilla on supervised

probation for the remainder of his indefinite suspension period. While on probation, Padilla must meet regularly with a retired judge to help improve his criminal law practice. He also must have a co-counsel in all felony cases, maintain adequate support staff in his law office and complete 15 hours of continuing legal education in criminal law and evidence as well as five hours of continuing legal education that was recommended by the Disciplinary Board.

The Court noted that Padilla cooperated in the disciplinary proceeding and had reimbursed his former client for the full amount paid for his criminal defense.

When the probationary period ends, Padilla is to apply for reinstatement. The Disciplinary Board will make a recommendation to the Supreme Court, which will decide whether to end Padilla's suspension and allow his reinstatement to the practice of law.

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To read the decision in *In re Padilla* No. S-1-SC-37594, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/454704/index.do