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LOCAL NEWS

Colorado investigating 3rd Judicial DA Ruybalid for ethics violations

By Jordan Steffen
The Denver Post

POSTED: 11/26/2013 12:01:00 AM MST | UPDATED: 2 DAYS AGO

7 COMMENTS

Blood was dribbling from Scott Kibitt's broken nose when they found him waiting.

Inside the tiny Weston home, less than 20 miles from the New Mexico border, Kibitt's roommate lay sprawled facedown in the hallway, dead from four gunshot wounds. Outside, drunk and dazed, Kibitt repeatedly stammered to deputies and firefighters:

"I shot him."

But 10 months later, 3rd Judicial District Attorney Frank Ruybalid dismissed the case against Kibitt. The case is one of more than a dozen criminal cases — alleging crimes such as child abuse, domestic violence, assault and theft — that never went to trial after Ruybalid and his prosecutors were accused of misconduct in handling the cases.

The Colorado Attorney Regulations Counsel has filed a detailed complaint against Ruybalid, the elected district attorney for Las Animas and Huerfano counties, alleging that he and prosecutors on his staff mishandled 16 criminal cases since 2010.

The 68-page complaint, filed Aug. 21, includes multiple claims that Ruybalid blatantly disobeyed court orders and intentionally violated state rules requiring him to provide the defense with evidence, some of which could have been used to prove innocence or lessen the offense.

Ruybalid, who was elected in 2008, filed an answer to the complaint on Oct. 11. He admits to facts of the cases but denies all claims of rule violations by himself and his prosecutors.

Ruybalid could face a suspension of his license or disbarment when the case goes to trial in April.

Four judges in Trinidad and Walsenburg either ordered or entertained sanctions against Ruybalid and his prosecutors. One judge called Ruybalid's actions "incompetent," and several judges noted a concerning pattern of Ruybalid and prosecutors hastily dismissing criminal cases after sanctions were ordered or requested.

Judges can impose sanctions against attorneys for a variety of reasons in cases, including failing to disclose evidence to their opponents, disobeying orders and other ethical violations. A common sanction involves a judge refusing to allow crucial evidence from being admitted at trial, leaving prosecutors unable to prove their case.

Ben Aisenberg, former president of the Colorado Bar Association and a current member of the ethics committee, said sanctions for misconduct are fairly rare and often require serious violations. Aisenberg said some of the circumstances in the complaint against Ruybalid were unheard of.

"The whole system of justice is that the judge must control the court," Aisenberg said. "For someone to disobey a court order — especially in the criminal aspect — breaks down the whole administration of justice."

Eight of the 16 cases were dismissed by prosecutors after sanctions were requested by defense counsel or ordered by a judge. Prosecutors dismissed three cases after they allegedly violated court rules.

In one case, a prosecutor waited two months until the day of trial to reveal that the victim in a domestic violence case told her she was using cocaine at the time of the crime. The judge found that the prosecutor's violation was so severe, the only appropriate discipline was to dismiss the case entirely.

In other cases, Ruybalid or prosecutors dismissed cases against defendants, including:

- Ruybalid dismissed a domestic violence case against Jeremy Licon in March 2012 after defense attorneys claimed he had not disclosed all of the evidence in the case after 17 months.
- Seven months after witnesses reported seeing Patrick Salazar punch a woman while she was holding their son, a prosecutor dismissed the case. Defense attorneys claimed the prosecutor did not provide the required list of witnesses he planned to call at trial.
- In August 2012, a prosecutor dismissed a case against a juvenile accused of participating in a "fight club." The day the trial was set to begin, defense attorneys accused the prosecutor of failing to obtain copies of videos showing the fighting.

Decreasing budgets and increasing caseloads have created challenges for the rural judicial district, Ruybalid told The Denver Post. Including Ruybalid, the office has three full-time prosecutors and one part-time prosecutor to cover four courts in the two counties that span more than 6,300 square miles.



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The Colorado Attorney Regulations Counsel has filed a detailed complaint against Frank Ruybalid, the elected district attorney for Las Animas and Huerfano counties, alleging that he and prosecutors on his staff mishandled 16 criminal cases since 2010. The 68-page complaint, filed Aug. 21, includes multiple claims that Ruybalid blatantly disobeyed court orders and intentionally violated state rules requiring him to provide the defense with evidence, some of which could have been used to prove innocence or lessen the offense.

Ruybalid handled more than 200 felony cases in Las Animas County alone in 2012, he said.

"It results in large case-loads, and sometimes it's very difficult," Ruybalid said. "There are several cases where I think there are overreactions from the judge."

Ruybalid said one judge in particular, District Court Judge Leslie Gerbracht, has used unfair and harsh language in ordering sanctions. Gerbracht was overseeing the Kibitt case before it was dismissed.

Kibitt was charged with second-degree murder for shooting and killing his roommate, 42-year-old Russell Foss, in December 2011. On Feb. 15, 2012, Gerbracht ordered Ruybalid to give public defenders 72 hours notice before any testing was done on the gun or other scientific evidence.

Two months later, Ruybalid sent a letter to the Las Animas County Sheriff's office asking them to "expeditiously" send evidence to the Colorado Bureau of Investigation lab for testing. He did not mention the judge's order, according to the complaint.

At a hearing that May, public defenders brought up the order, and Ruybalid told the judge, "I think I forgot," according to court transcripts. Ruybalid did not alert CBI to the order again in August, when he was notified the testing had been scheduled, according to the complaint.

In October 2012, Gerbracht ordered sanctions against Ruybalid because of the violation and ruled that all scientific testing and testimony about the testing would not be admitted at trial. Gerbracht called Ruybalid's actions a "blatant disregard" for her orders and state rules.

"It is inconceivable to believe that the above cited litany of discovery violations are a result of ignorance of the law," Gerbracht wrote. "The only conclusion this Court can come by is willful misconduct by the prosecutor's office."

On the same day the judge issued sanctions, Ruybalid filed a motion to dismiss the case. Ruybalid said the sanctions did not affect his decision to dismiss the case but argues that a jury was likely to believe claims of self-defense.

Kibitt told officers that Foss assaulted him intermittently for up to an hour before he allegedly shot him. His nose was broken, and he had a chipped front tooth when officers took Kibitt to the hospital.

But Las Animas County Sheriff James Casias, who says he was not consulted before Ruybalid dismissed the case, sent the DA a letter listing 10 pieces of evidence or witnesses that were not considered. He said he strongly disagreed with the dismissal.

In several cases, Ruybalid is also accused of intentionally failing to produce evidence from law enforcement and disclose it to defense attorneys.

Ruybalid allegedly ignored a judge's order to obtain surveillance video from a Walmart where the defendant was accused of stealing five iPads by hiding them in an air mattress box. During a follow-up hearing, Ruybalid said the evidence "must not be that important" because public defenders never called to ask for it, according to court transcripts.

Ruybalid dismissed the case after the judge ruled the videos could not be admitted during trial and argued that the videos were the "cornerstone" of his case, according to the complaint.

In addition to mishandling his own cases, Ruybalid is accused of hiring inexperienced attorneys and failing to properly train them.

A prosecutor in Ruy-balid's office dismissed a 2011 child abuse case after defense attorneys requested sanctions for her failure to produce criminal history records for her witnesses.

In March, a different prosecutor offered two defendants plea agreements without their attorneys present. Huerfano County Judge Gary Stork refused to sign the prosecutor's motions to dismiss those cases unless he filed them under prosecutorial misconduct – forcing the prosecutor to acknowledge the mistake.

Still, Ruybalid denies misconduct by his prosecutors, arguing that it is difficult to attract experienced and trained attorneys to rural areas that pay less than larger district attorney offices. He also denied failing to train his prosecutors and said he does his best to work with them in person.

Ruybalid's case is set to go to trial in April before a three-member panel, including the Colorado Supreme Court's Presiding Disciplinary Judge William Lucero. In 2012, the Attorney Regulations Counsel filed 47 formal complaints, and 11 continued on to trial, according to the counsel's annual report for 2012.

The panel may dismiss the case or hand down one of three options: public censure, suspension or disbarment. Last year, eight cases ended in disbarment.

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CASE FILE**What's next**

If the case goes to trial in April, a three-member panel may dismiss the case or hand down one of three punishments:

Public Censure: A public reprimand of an attorney for some form of misconduct.

Suspension: A temporary suspension of an attorney's license to practice law.

Disbarment: An attorney's license to practice law is revoked. The attorney may seek readmission eight years later but must retake and pass the Colorado Bar examination and demonstrate an ability to practice law.

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OPINION
Carroll: Do Colorado's rural district attorneys know what they're doing?

By Vincent Carroll
 Denver Post editorial page editor

POSTED: 11/26/2013 05:16:00 PM MST | UPDATED: A DAY AGO 7 COMMENTS

Is there a prosecutorial equivalent of the Keystone Kops?

If so, 3rd Judicial District Attorney Frank Ruybalid might be a candidate for the designation, at least if complaints leveled against him by the Colorado Attorney Regulations Counsel turn out to be true.

As an article Tuesday in The Denver Post by Jordan Steffen outlined, the state's 68-page complaint portrays Ruybalid's office as both bumbling and ethically challenged, prompting the dismissal of serious cases from Las Animas and Huerfano counties.

Ruybalid will get a chance to defend himself in April in official proceedings but, even without that verdict, it's fair to wonder about the quality of prosecution in parts of rural Colorado. Consider, for example, that Ruybalid's top assistant prosecutor, according to The Pueblo Chieftain, was an "attorney who had never handled a felony trial."

Attorney General John Suthers was sounding the alarm about such inexperience long before Ruybalid landed in scalding water.

"I believe a lack of experienced prosecutors in our rural areas is making our justice system less effective than it should be in providing the public protection," Suthers told the Colorado Judicial Institute last spring. Indeed, he said, "I've come to the conclusion that in much of the rural area of Colorado, the prosecutors' offices are being outgunned by the public defender's office, who handles a high percentage of the criminal docket."

Surely he's kidding, you might be thinking. After all, prosecutors can tap the vast resources of the state, right?

Actually, no. As Suthers explained to me Tuesday, while the state sets each district attorney's salary at a minimum of \$130,000 (while kicking in 80 percent), a DA's office budget comes from the counties in the district. And if the district comprises five or six relatively poor, rural counties subject to a variety of competing needs, funding is likely to be bare-bones.

As a result, Suthers added, the salaries of assistant prosecutors are likely to be \$20,000 to \$30,000 less than those of public defenders. And their expertise is likely to lag as well.

As evidence for his concern, Suthers notes that more prosecutors than ever are requesting assistance from his office to handle major cases, especially murders. It seems no one in some DA offices, including the elected prosecutor, has the experience to take the lead.

More disturbingly, Suthers says, "at least a dozen district court judges" in rural areas have told him that "overly lenient plea bargains are being entered into by rural DA's in homicide cases and other very serious felony cases specifically because their offices lack the ... expertise" to deal with them.

"We're the only state with term limits for DAs," he notes. In the past, rural prosecutors could develop great skill over time, but that's much less likely today.

"We now have a few rural DA's offices where no one, including the elected DA, has more than two years of prosecution experience," he told me.

Colorado should abolish DA term limits, he argues.

Second, he says, it's time for the organized bar to take an interest not only in well-funded courts and indigent defense but also in the need for competent prosecution, which it tends to take for granted.

Finally, the legislature may want to boost funding for the AG's Violent Crime Assistance Unit so it can help out in more cases where the local DA is at a disadvantage.

"Please keep in mind that an effective criminal justice system requires competent prosecutors that can carefully review evidence, make principled charging decisions, and zealously prosecute serious crimes to the extent necessary to achieve justice," Suthers told the judicial institute. "It's essential to the rule of law."

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Colorado Attorney General John Suthers says Colorado should abolish its term limits for district attorneys. (Cyrus McCrimmon, The Denver Post)



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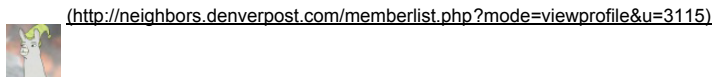
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66&NBS;MIN. AGO (8:53 AM ON THURSDAY NOV 28)

Frank Ruybalid has a long history of incompetence. He's been elected because no one else is qualified for the job in that area of the state. The few that are don't want the job. I remember him getting in trouble for not paying his staff. Granted, a few hard cases have weighed down the office's resources, but overall he's not the best.

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2 years of experience and a "minimum" salary of \$130,000?? And all they have to do is call up a bigger district to get them to help do their jobs?

It sounds to me like minimum salary requirements need to be removed, and districts adjusted to include enough of a tax base to do the job right. Removing term limits will not change the money available. Paying someone with two years of experience like they have two years of experience will change the money available.

It doesn't surprise me one bit that when lawyers are everything else should change but their own salaries detrimental to the gross national product than lawyers. They are the quintessential leaches of society. Now you want us to feel bad that they can't do their jobs for more than twice the average salary of the nation?

As for them not doing their jobs because small town trials have lower penalties for the same crime? Perhaps that has more to do with the sense of community in small towns. The likelihood that everyone knows the victim and the accused is much higher. Have you ever watched "Bernie"?

I think the problem is that somehow crime and justice is measured based on years in prison and conviction rates. Since when was justice supposed to be based on quotas? We now incarcerate more per capita than Stalin at the height of his gulag police state. Perhaps the problem is not the criminals, but the leaches sucking the blood out of the economy. After all, it is common knowledge that only the rich can really afford "justice". The rest of us are screwed. Sounds like living in a small town only makes you a little less screwed.

Yep, spend some time in the DA's office then get a job as a defense attorney and use your connections to help the criminals who can pay your fees. The Breaking Bad stuff is spot on, as most attorneys have criminals or dirty ex-cops (excuse me, "PIs") on their payroll to do the dirty work. And the "successful" civil attorneys don't go after individuals - individuals fight to keep their money - they go after insurance companies and city governments, as the folks making the decisions are happy to settle with other peoples' money.

I remember an NPR story from years ago discussing how the productivity of a country is inversely proportional to the number of lawyers per capita, as attorneys take lots out of the economy and slow progress without contributing anything positive (gee, wonder why all our politicians are attorneys - three years of easy postgrad work and you get a license to screw with folks and steal other peoples' money). Sure there are a some good ones...maybe 5 or 10% of them.....

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Tell me about it - Montezuma / Dolores Counties have had a parade of Keystone-copesque DA's for years - drunk driving, actually being ordered by the judge to take a remedial course on discovery, on and on. Hopefully our current DA breaks the trend - so far so good.

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Frank Ruybalid: Is there anything worse than a schmucky DA?

By Alan Prendergast

Published Fri., Nov. 29 2013 at 3:23 PM

If the allegations concerning Frank Ruybalid, district attorney of Huerfano and Las Animas counties, hold water -- and the Colorado Office of Attorney Regulation Counsel has a large tub of claims that Ruybalid mishandled at least sixteen criminal cases, failing to obey court orders or disclose evidence and then dismissing cases when a stink was raised -- then the tougher question is whether all these judicial snafus are a matter of ineptitude or something even worse. Either way, the idea of a DA repeatedly bungling serious criminal cases is megaschmuck territory.

As the *Pueblo Chieftain* reported back in September, the OARC filed [a hefty complaint](#) against Ruybalid last summer, accusing him of no less than 29 separate instances of misconduct. Much of the impetus for the action seems to have originated with four different judges who found the DA's conduct beyond the pale (and at times worthy of sanctions) in numerous cases, including one murder case that ended up being dismissed.

Ruybalid, who was elected in 2008, denies intentionally violating any rules. In a response almost as long as the complaint, he blames a lot of his problems on [a heavy caseload](#) and not being able to hire and retain experienced attorneys in his district, which includes the towns of Walsenburg and Trinidad.

Yet DAs in other rural areas of the state seem to get by without judges and defense attorneys crying for their scalps. Ruybalid faces suspension and possible disbarment when the OARC case goes to trial next spring. Maybe he'll prove more able in his own defense than he's been as the people's prosecutor, but right now he's accused of schmuckiness in the first degree.

More from our [Schmuck of the Week archives](#): [Roland Herrera's schmucky decision to impersonate a police officer -- to a cop.](#)



Frank Ruybalid.



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Prosecutor: Case against him could create havoc

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BY ROBERT BOCZKIEWICZ THE PUEBLO CHIEFTAIN

Published: February 5, 2014; Last modified: February 5, 2014 09:13AM

DENVER — District Attorney Frank Ruybalid is contending that a pending disciplinary case against him could create havoc for all prosecutors in Colorado.



Frank Ruybalid

Ruybalid is the top prosecutor in Las Animas and Huerfano counties.

He contends the case “will create a nightmare for prosecutors all over the state” if the allegations against him go forward in their current form. He makes the contention in a new court pleading filed by attorneys representing him.

The case alleges that Ruybalid committed misconduct by the way he and his subordinates handled prosecutions in criminal cases.

The case is pending before the Colorado Supreme Court’s presiding disciplinary judge, William Lucero. The disciplinary judge oversees the disposition of official complaints against attorneys in the state.

The allegations against Ruybalid are in a complaint filed Aug. 21 by the Supreme Court’s Office of Regulation Counsel, which investigates reports of misconduct against

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attorneys. The office investigated Ruybalid based on a report in 2012 from public defender Patrick McCarville of Trinidad. The duties of McCarville and of Ruybalid put them on opposing sides in court.

The 67-page complaint alleges that from 2010, Ruybalid:

Repeatedly disobeyed orders of judges in Walsenburg and Trinidad.

Intentionally and repeatedly violated a state court rule that requires prosecutors to provide to defendants' attorneys potential evidence and information that might favor the defendants.

Hired inexperienced prosecutors, who sometimes were incompetent in court, for key positions and failed to train and supervise them.

The complaint in its current form "would gut the protections conferred on prosecutors" by the state Supreme Court in a 2002 ruling, Ruybalid contends in the new filing. The ruling, Ruybalid asserts, stated that prosecutors are not liable for violating the rule requiring prosecutors to disclose evidence favorable to defendants unless the evidence is "material" to a defendant's side of a case. The ruling also stated that prosecutors are not liable for violating the rule if they did not intend to violate it.

The 2002 ruling is critical, Ruybalid contends, because some of the claims in the complaint against him do not allege that he intentionally violated the disclosure rule. Another reason Ruybalid contends the ruling is critical is that some claims against him do not allege that the undisclosed information was material to the defendant's side of the case.

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This is just one example of many overzealous prosecutors who care more about their careers than of the innocent people they are sending to prison. People like him should have to spend many years behind bars in general population, wearing a sign saying "I was a prosecutor...I may be responsible for putting you in here."

I have nothing against prosecutors, in general. However, they should be forced to play by the rules. If they don't, they are breaking the law. People's lives are at stake.

This particular person sounds to me like he's over-the-top arrogant. Plain and simple.

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SATURDAY, JUNE 21, 2014

District Attorney Ruybalid's Denver trial is postponed until Supreme Court decision

Published: April 3, 2014

A trial, set to begin April 14 in which District Attorney Frank Ruybalid is charged with “incompetence” and violating the Rules of Professional Conduct, is on hold pending resolution of motions filed by the defense.

The Presiding Disciplinary Judge issued an order March 7 and both sides have requested the Supreme Court review that order before proceeding.

The trial has been vacated and will remain stayed until the Supreme Court decision is made. This order was issued on March 31. Ruybalid is the District Attorney for the Third Judicial District, which is comprised of Las Animas and Huerfano counties.

Charges against him arise from a yearlong investigation into allegations of wrongdoing by the prosecutor and his staff in handling of criminal cases.

Ruybalid allegedly failed to comply with orders from the District Court in several cases. Many of the cases involved discovery violations under Rule 16 of the Colorado Rules of Criminal Procedure.

Several cases, including a murder case, were dismissed by Ruybalid after sanctions were issued against his office for the “blatant disregard for issues ordered by” the Court and for numerous discovery violations.

Published: April 3, 2014

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LOCAL NEWS

Embattled DA's case could create "nightmare" for fellow prosecutors

By Jordan Steffen

The Denver Post

POSTED: 06/18/2014 12:01:00 AM MDT | UPDATED: 3 DAYS AGO

1 COMMENT ([HTTP://WWW.DENVERPOST.COM/NEWS/CI_25983337/EMBATTLED-DAS-CASE-COULD-CREATE-NIGHTMARE-FELLOW-PROSECUTORS#DISQUS_THREAD](http://www.denverpost.com/news/ci_25983337/embattled-das-case-could-create-nightmare-fellow-prosecutors#DISQUS_THREAD))

Allegations against a district attorney accused of mishandling more than a dozen

criminal cases could create a "nightmare" for fellow prosecutors across the state, his defense counsel said.

Third Judicial District Attorney Frank Ruybalid and his staff are accused of [mishandling 16 criminal cases \(http://www.denverpost.com/news/ci_24600944/state-investigating-3rd-judicial-da-ruybalid-ethics-violations\)](http://www.denverpost.com/news/ci_24600944/state-investigating-3rd-judicial-da-ruybalid-ethics-violations) since 2010. Those criminal cases included charges for murder, child abuse, domestic violence and assault — most of which were dismissed by Ruybalid or his staff after sanctions were requested or imposed.

Ruybalid filed a response to the Colorado Attorney Regulation Counsel's allegations, denying all claims of rule violations by himself and his prosecutors.

As the case churns toward an October trial date, arguments have circled around how discipline, if any, for Ruybalid will change the ways prosecutors handle evidence in criminal cases.

Those seeking to discipline Ruybalid, the elected district attorney for Las Animas and Huerfano counties, suggest other prosecutors have a stake in increasing the public's confidence. But Ruybalid's attorney warns the case could leave prosecutors more vulnerable to discipline for discovery violations — a matter that has traditionally been decided by judges.

"District attorneys have a self-evident and strong interest in seeing that they are not subject to discipline over routine, unintentional evidence and discovery mistakes that inevitably happen in a busy district attorney's office — assuming they are mistakes at all," Ruybalid's attorney, Alexander Rothrock, wrote in a recent motion.

The 68-page complaint alleges that Ruybalid repeatedly — and blatantly — disobeyed court orders and intentionally violated rules requiring him to disclose evidence to the defense. A total of four judges in the district either ordered or threatened sanctions against Ruybalid and his prosecutors — one called Ruybalid's actions "incompetent."

Several judges questioned a concerning pattern where Ruybalid and his prosecutors dismiss criminal cases after sanctions were requested or imposed.

Judges may order sanctions against attorneys for a variety of reasons, and they can include punishments such as excluding some evidence from trial.

Tom Raynes, president of the Colorado District Attorneys Council, said, generally, the regulation counsel should be allowed to pursue alleged ethical violations by prosecutors and defense attorneys.

Raynes says the counsel should be careful when going after discovery violations against Ruybalid because discovery violations are not by default ethics violations and punishment for discovery violations typically have been left up to the court.

"I think there is a danger it could jeopardize criminal procedure if attorney regulation delves too far into what is typically the business of the court," Raynes said.

The debate on how the outcome of the case against Ruybalid will affect other prosecutors was most recently highlighted during a hearing last week before the Colorado Supreme Court's presiding disciplinary, Judge William Lucero.

Attorneys for the regulation counsel asked Lucero to force defense attorneys to disclose e-mails between other elected district attorneys and Rothrock. The e-mails include exchanges between Rothrock and Raynes; Stan Garnett, district attorney for Boulder County; Dan May, district attorney for El Paso and Teller counties; and Dick Reeve, a prosecutor for the Denver district attorney's office.

None of the four attorneys face any kind of disciplinary action, and none are helping to pursue the case against Ruybalid. Raynes, Garnett and May were speaking to Rothrock in their various roles with the Colorado District Attorneys' Council.

Garnett told The Denver Post that he does not know the facts of the case against Ruybalid well enough to say whether the outcome ultimately could hinder prosecutors' ability to collect and present evidence. But he said the regulation counsel should be allowed to investigate and pursue issues and complaints.

"They are an important part in making sure the public has confidence in our system," Garnett said. "The public needs to know prosecutors handle themselves at the highest ethical standards."

Ruybalid's case is set to go to trial in October before a three-member panel, including Lucero. The panel may dismiss the case or hand down one of three options: public censure, suspension or disbarment.

Jordan Steffen: 303-954-1794, jsteffen@denverpost.com or twitter.com/jsteffendp

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Those who believe that overreach, mismanagement and unethical (if not criminal) behavior is not a common occurrence among Prosecutors has never been a prosecuting attorney.

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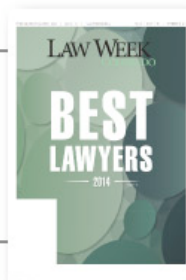
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Complaint Filed Against 3rd District Attorney

Posted on 07 August 2014.

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LAW WEEK COLORADO

A complaint was filed with the Office of Attorney Regulation Counsel August 1 against 3rd Judicial District Attorney Frank Ruybalid.

The complaint lists the People of the State of Colorado as the plaintiff. The complaint outlines allegations involving five cases handled by the 3rd District Attorney's office. Detailed in the complaint are seven claims of misconduct: failure to provide competent representation to a client, failure to act with reasonable diligence and promptness in representing a client, unlawfully obstructing another party's access to evidence, knowingly disobeying an obligation under the rules of a tribunal, failure to timely disclose to the defense all evidence which tends to negate the guilt of the accused or mitigate the offense, supervising lawyer's failure to make sure the other lawyer conforms to the rules of professional conduct, and engaging in conduct that is prejudicial to the administration of justice.

Ruybalid currently faces another pending complaint filed Aug. 21, 2013, with the Office of Attorney Regulation Counsel.

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Las Animas, Huerfano DA faces 29 misconduct claims

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BY ROBERT BOCZKIEWICZ THE PUEBLO CHIEFTAIN

Published: September 14, 2013; Last modified: September 14, 2013 05:00AM

DENVER — The state office that investigates misconduct of attorneys is accusing the district attorney of Las Animas and Huerfano counties of 29 instances of serious misconduct.



The alleged misconduct involves the handling of criminal cases by him and other prosecutors on his staff, including a murder case that the district attorney dismissed.

The accusations against District Attorney Frank Ruybalid were filed Aug. 21 by the Colorado Supreme Court's Office of Attorney Regulation Counsel.

The office's 67-page complaint claims that Ruybalid at least from 2010:

Repeatedly disobeyed orders of judges in Trinidad and Walsenburg.

Intentionally and repeatedly violated a state court rule that requires prosecutors to provide potential evidence and information that might favor defendants to attorneys for defendants before trials.

Hired inexperienced prosecutors for key positions, whose actions in court sometimes were incompetent, and failed to train and supervise them.

The complaint cites several examples of Ruybalid or his subordinate prosecutors dismissing cases against criminal defendants when judges threw out evidence due to the

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prosecutors' misconduct.

Ruybalid, for example, dismissed a murder case against Scott Kibitt last October after a judge decided there had been "willful misconduct by the prosecutor's office" and sanctioned the prosecutor for the misconduct by limiting evidence he could use against Kibitt.

Ruybalid may be put on trial by the Supreme Court's attorney disciplinary judge on the Attorney Regulation Counsel's allegations that stem from the office's 11-month investigation.

Ruybalid, through a Denver-area attorney representing him, has not yet filed a response to the complaint. The Pueblo Chieftain did not receive a response Friday from Ruybalid to a request for his comments.

The attorney regulation office's file of its investigation includes a ruling a year ago by state District Court Judge Leslie Gerbacht in Trinidad that states: "It is blatantly clear . . . there is a pattern of blatant disregard (for the rule at issue) and a blatant disregard for orders issued by this court as well as other judges in this district by Mr. Ruybalid's District Attorney's office. The only conclusion this court can come to is willful misconduct by the prosecutor's office."

The report of the regulation counsel's investigations states that two defense attorneys who were interviewed said Ruybalid's violations of the rule "do not appear to be willful, (but rather) as the result of an excessive caseload, and lack of proper funding and staff for the (DA's) office."

The regulation counsel is asking that Ruybalid be "appropriately disciplined" by the attorney disciplinary judge.

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FRIDAY, SEPTEMBER 19, 2014

New allegations of misconduct against DA Frank Ruybalid

Trial set to begin Oct. 20 in Denver

by Renee Rinehart Published: June 5, 2014

There is a continuing pattern of incompetence at the District Attorney's Office in the Third Judicial District according to new allegations in the misconduct suit against District Attorney Frank Ruybalid.

In a May 29 filing, the prosecutor for the Attorney Regulation Counsel cites several instances of misconduct by Assistant District Attorney Andrew Hall and accuses Ruybalid of failing to supervise his assistant and failing to train him about Colorado's Victim's Rights law.

Charges of incompetence in the original complaint listed several cases in which Ruybalid failed to provide competent representation for the State as the top prosecutor in the district and also listed several other instances in which he reportedly violated the Colorado Rules of Professional Conduct (CRPC).

Ruybalid is set for a 10-day trial in this matter on Oct. 20 and a pre-hearing conference is set for Sept. 20 in Denver.

Ruybalid's attempts to halt or delay the trial were recently dismissed by the Colorado Supreme Court. Judge William Lucero, the presiding disciplinary judge, previously ordered mandatory mediation in this case for March 7, 2014. But Ruybalid's motions delayed that mediation. In his recent Order, Judge Lucero said the parties shall set a mediation date and he set a deadline of Sept. 22 for any conditional admission of misconduct or diversion agreement.

By Renee Rinehart Published: June 5, 2014. See full article in print edition.

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