



CASE ALERT

New Case Explains What Is Relevant when Renewing a Domestic Violence Restraining Order

Ashby v. Ashby, 68 Cal.App.5th 491 (2021)

How Could This Case Help? This case may help if someone is trying to renew their domestic violence restraining order.

Summary of the Case After divorcing her Husband, Wife got a three-year domestic violence restraining order (DVRO) against Husband. Wife's DVRO was based on incidents of physical, emotional, and financial abuse. Wife's DVRO was also based on Husband intimidating Wife by displaying his gun when they had arguments.

Husband later tried to end Wife's DVRO before it expired, arguing it was no longer necessary. The trial court decided to not end Wife's DVRO. The trial court, however, did allow Wife to move to another state with the parties' children. Before the three years of her DVRO were up, Wife asked the court to renew the DVRO. Wife asked the court to renew the DVRO because Husband had violated multiple court orders. Husband, for example, failed to pay court ordered support and fees for a custody evaluation. He also refused to follow the child visitation order. In addition, Husband further abused Wife by using the children's phones to electronically track her. After a hearing, the trial court renewed Wife's DVRO for five years. Husband appealed.

The appeals court said the trial court was correct when it decided Wife had a reasonable fear future abuse would happen without the renewal of her DVRO. The opinion confirms for the first time that "using spiteful litigation tactics" and violating court orders, such as support and visitation orders, should be considered when deciding whether to renew a DVRO. In particular, the opinion describes how Husband tried to "financially starve" Wife to pressure her into dropping her DVRO. While there does not need to be a violation of a DVRO for it to be renewed, the opinion explains that the court can consider electronic stalking and financial abuse when deciding whether to renew a DVRO. Finally, the opinion notes judges should consider the facts and evidence that led to the initial DVRO when deciding if a DVRO should be renewed.

PRACTICE TIPS

1. To renew a DVRO, the person asking for the DVRO renewal needs to show a **reasonable person in their shoes has a reasonable fear abuse will happen if the DVRO expires**. If the court uses a different legal standard, give them a copy of this opinion.
2. When deciding a DVRO renewal request, the trial court should hear evidence about litigation behavior or violations of any court orders. If the trial court refuses to hear this evidence show them a copy of this opinion.
3. The trial court may not deny a request for a DVRO renewal just because there have been no violations of the DVRO. If the trial court **requires that a violation of the DVRO must have happened before it can grant a renewal**, show them a copy of this opinion.
4. Financial abuse and/or e-stalking is abuse under the law. If the trial court doesn't believe **financial abuse or e-stalking is abuse under the law** in the DVRO renewal hearing, show them a copy of this opinion.

For questions, contact Family Violence Appellate Project at info@fvaplaw.org or (510) 380-6243. Thank you!