



CASE ALERT

Tanguilig v. Valdez, 36 Cal.App.5th 514 (2019) defines, for the first time, what is “good cause” for adding a family or household member to a protective order.

How Could This Case Help Your Clients? If your client would like to include a family or household member on their restraining order, this case may help them explain why their request should be granted.

Although this case involved an elder abuse restraining order, the law about adding other protected parties onto a restraining order is the same in both the elder abuse and Domestic Violence Prevention Act statutes. Since the statutes are very similar, courts often look to case law on one kind of restraining order when there is no case law on point. For example, in 2018, the appeals court in the case of *In re Marriage of Davila & Mejia* looked to the elder abuse case of *Gdowski v Gdowski* for what standard of proof applies when a petitioner alleges an act of abuse occurred. ((2018) 29 Cal. App. 5th 220, 226.) There is no case law about what is “good cause” to protect a family or household member in a domestic violence restraining order, so it is appropriate to refer to this elder abuse case for guidance on this issue when asking a court to protect someone on a domestic violence restraining order.

Summary of the Case

Mr. Tanguilig requested an elder abuse restraining order to protect him, and his family members, from their neighbor, Mr. Valdez. Mr. Tanguilig alleged that Mr. Valdez repeatedly blocked Mr. Tanguilig’s driveway with trash cans, which was a nuisance and dangerous; and that Mr. Valdez sprayed him with water from a hose over their shared fence many times. Mr. Tanguilig’s restraining order request was granted. Mr. Valdez appealed and argued that it was not proper to include four additional family members who lived with Mr. Tanguilig as additional protected parties on the restraining order.

For the first time ever, a court of appeal discussed what is “good cause” to add a family or household member to a restraining order. Quoting from cases discussing good cause in other kinds of cases, the court stated: “Generally, good cause as a standard is relative and depends on all the circumstances. [I]n determining the meaning of “good cause” in a particular context, the courts utilize common sense based upon the totality of the circumstances, which include[s] the purpose of the underlying statutory scheme. As a general rule, “good cause” includes reasons that are fair, honest, in good faith, not trivial, arbitrary, capricious, or pretextual, and reasonably related to legitimate needs, goals, and purposes. The concept of good cause should not be enshrined in legal formalism; it calls for a factual exposition of a reasonable ground for the sought order.” (internal citations omitted.)

Applying that standard to the facts of the case, the court explained that because Mr. Valdez’s repeated abuse took place outside of the Tanguilig family home, it was reasonable and for good cause to extend the protective order to the other family members living in the home.

PRACTICE TIPS

1. If you are requesting that an additional family or household member be protected under your restraining order, explain why they need protection in your restraining order petition.
2. If you are asking that a household or family member be protected because the abuser threatened to hurt that person in the past, or did hurt that person in the past, explain that in your petition. Even if that household or family member could qualify for their own restraining order, they can still be a protected person on your restraining order.
3. If you are asking for a child to be a protected person on your restraining order, explain whether the child has been exposed to domestic violence, or is at risk of being exposed to domestic violence. Be sure to tell the court that it is damaging for children to be exposed to domestic violence, even if they are not physically harmed by the abuse. You can refer to Family Code section 3020(a), which states “the perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the health, safety and welfare of the child.”

For questions or clarifications, contact Family Violence Appellate Project: info@fvaplaw.org or (510) 858-7358. Thank you!