

CASE ALERT

DVRO Renewals: What Evidence Can Be Used, and How Courts Should Rule

G.G. v. G.S. (2024) ___ Cal.App.5th ___ [2024 WL 2720300]

How Could This Case Help Your Clients?

- This is the first case to say that **more incidents of abuse, and more evidence of abuse, can be brought up** at the DVRO renewal hearing. This includes abuse and evidence that could've been, but wasn't, brought up at the original DVRO hearing. For example, in this case, at her DVRO renewal hearing G.G. talked about the abuse and evidence of G.S. "manhandling" her, which she hadn't brought up in her initial DVRO hearing before.
- This case helps explain how **important DVROs are for protecting survivors** because domestic violence is one of the most serious risks to women's health.
 - *This case explains:* "[T]he more comprehensive an order can be, and the longer it remains in place, the better the odds that the abuse will end."
- This case reminds trial courts that **nonphysical abuse needs to be taken just as seriously as physical abuse**. Stalking, for example, needs to be taken very seriously because it has many lasting effects on survivors. And stalking a strong predictor of future abuse, including physical or deadly abuse.
- This case helps explain how the court should use the **three steps outlined in the *Ritchie v. Konrad* (2004) 115 Cal.App.4th 1275** case to decide a DVRO renewal request, when it's disputed:
 - **Step 1: What led to the initial DVRO in the first place?** The abuse and other facts that led to the DVRO "often will be enough" to get the renewal. This is true even if the original abuse wasn't physical.
 - **Step 2: Have things changed?** If things are the same or worse, the DVRO needs to continue. If things have gotten better, the DVRO may still need to continue, unless things are so much better that the DVRO's no longer needed.
 - For part of this Step 2, the trial court can look at whether the **DVRO has been violated or not**. A renewal can't be denied just because the DVRO hasn't been violated. If the DVRO hasn't been violated, the order has been working and arguably should be renewed. If the DVRO has been violated, the order should arguably still be renewed.
 - **Step 3: Would the DVRO burden the restrained party?** ****This Step 3 should be skipped if the abuse in the case is physical.**** If the abuse is not physical, like nonphysical stalking, the court can look at any actual burdens the DVRO causes the restrained party. It's up to the restrained party to show actual burdens, if any.
 - This doesn't mean the protected party has to show more to get their renewal. It only means the restrained party can discuss the burdens of the DVRO on them if the abuse is nonphysical.

Case Summary

In this case, a survivor of domestic violence, G.G., got a two-year DVRO against her former cohabitant and the father of their children, G.S. While they were together, G.S. would abuse G.G. by blocking her movements, recording her without her permission, bugging her home, harassing her, and taking her phone so she could not call for help. After their relationship ended, G.S. continued abusing G.G. For instance, G.S. stalked, harassed, and disturbed G.S.'s peace by, for example driving by her

home late at night, looking through her bedroom window, and watching her at the public courthouse where she works. In 2020, she obtained a two-year DVRO against G.S.

At the 2023 renewal hearing, G.G. testified that she thought G.S. violated the DVRO but she couldn't prove it. The court denied her renewal request, saying that while G.G.'s fear of future abuse appeared genuine and real, it was not reasonable. The court mainly used its finding G.S. hadn't violated the DVRO.

The Court of Appeal reversed and sent the case back to the trial court for another hearing on G.G.'s request to renew her DVRO against G.S. The Court of Appeal said the trial court made two mistakes: (1) The abuse that led to the original DVRO can support renewal, even if the abuse was not significant or physical abuse; and, (2) without significant or physical abuse, a renewal can still be granted, even if there is no further abuse or a violation of the DVRO.

PRACTICE TIPS

1. When deciding a DVRO renewal, if the court won't allow **more evidence or incidents of abuse**, even of past abuse that led to the original DVRO, show them this case.
 - a. *This case explains:* "Additional acts of past abuse remain relevant to reasonable fear of future abuse, no matter when they were committed or presented to the court."
2. If the court **denies the DVRO renewal** because of one of the below two reasons, show them this case:
 - a. The abuse is **not physical, such as stalking**.
 - i. *This case explains:* "The law does not permit courts to make a distinction between physical and non-physical abuse when issuing DVROs. Nor is there any indication that courts should make such a distinction when deciding whether to renew them."
 - b. The DVRO **hasn't been violated**.
 - i. *This case explains:* "[O]bedience to an order may well end when the order does."
 - ii. *This case explains:* "*Ritchie* asks courts to adopt a practical view of their own orders. A court order may change behavior, but that does not mean it has solved the problem. The underlying issue may remain, even if the order has been followed."
3. If the court doesn't apply the correct, **three-step DVRO renewal test from *Ritchie v. Konrad***, show them this case. This three-step test is described in detail above. The below provides some helpful quotes from the case for each step.
 - a. **Step 1:** "The first *Ritchie* factor asks the court to reacquaint itself with the nature of the problem, reminding the court that the original evidence will 'often' be enough by itself to justify a renewal."
 - b. **Step 2:** "The second *Ritchie* factor asks the court to check for any external reasons to believe that the situation has changed and the order is no longer necessary."
 - c. **Step 3:** "The third *Ritchie* factor gives the restrained party the chance, assuming that chance has not been forfeited, to ask the court to ameliorate any burdens the order may place on them."

For questions or clarifications, email or call Family Violence Appellate Project at info@fvaplaw.org or (510) 380-6243. See [FVAP's case compendium](#) for *Ritchie v. Konrad* and other DVRO cases, plus a bunch of other free resources on our website for more. Thank you!