



### CASE ALERT

## **New Case Reminds Courts to Focus on the Survivor's Reasonable Apprehension of Fear Instead of Unproven Justification for Abuse**

*Navarro v. Cervera, 108 Cal.App.5th 229 (2025)*

### **How Could This Case Help You or Your Clients?**

- **This case reaffirms that:**
  - **No new abuse is required.** The court emphasized that a DVRO may be renewed solely based on the survivor having ongoing fear of future abuse based on the past incidents of abuse. The abuse that led to the original DVRO “will often be enough.”
  - **Even a single knowing violation should be weighed seriously.** In this case, the restrained party violated the DVRO by sending a text and an email saying she loved the survivor. The court made clear that any knowing violation of a protective order must be taken seriously, no matter how small it may seem.
- **This case helps explain that it is inappropriate for the Trial Court to pressure litigants into settlement.**
  - In a footnote, the Court of Appeal cautioned that trial courts encouraging settlement discussions may be inappropriate in DVRO cases involving serious abuse, violations of the restraining order, and where the survivor has expressed emotional distress at being near the restrained party. Trial courts often try to get survivors to agree to shorter orders, continuing the temporary order, or even entering mutual orders. But encouraging a settlement might not be appropriate in some cases.
- **This case explains that medical explanations for any alleged abuse must be supported by substantial evidence.**
  - The restrained party claimed that her abusive conduct was caused by medication side effects. The Court of Appeal rejected this explanation because it was not supported by any evidence other than the restrained party's own testimony and conclusions. The court emphasized that when a restrained party cites medical or psychological reasons for their abuse, merely claiming that medication side effects caused their behavior is insufficient.

### **Summary of the Case**

In this case, Navarro obtained a five-year domestic violence restraining order (DVRO) against her former partner, Cervera, after enduring severe abuse. The abuse included Cervera's attempting suicide multiple times, expressing a fascination with murder-suicides, and breaking into Navarro's home. Cervera admitted to trying to enter Navarro's car in 2018 while armed with a large knife—later admitting she planned to kill her.

At the DVRO renewal hearing, Navarro testified that Cervera violated the DVRO by sending Navarro an email and text message. In those messages, Cervera professed her love and said she didn't care if she went to jail.

At the DVRO renewal hearing, Cervera argued that the DVRO should not be renewed. Although she admitted sending the messages, she claimed they were meant as an apology. She

also claimed her behavior in 2018 was caused by side effects from medication. Finally, she testified she had since moved out of state, she had not had contact with Navarro in four years and did not want to contact her.

The trial court discounted Navarro's fear of future abuse based on the 2018 incident, relying on three factors: (1) that the attack was an isolated incident; (2) that it was "triggered by medication Cervera has since discontinued"; and (3) that Cervera was receiving treatment for a new mental health diagnosis. The court also found that there had been a change in circumstances, pointing to the lack of contact since 2019 and the fact that Cervera had moved to another state.

The Court of Appeal reversed, finding the trial court's decision was not supported by substantial evidence. It highlighted that the 2018 incident was not only serious, but also not an isolated event. The Court reaffirmed that even if it was an isolated incident, no new abuse is required to renew a DVRO.

The Court also found that nothing in the record supported Cervera's claim that the 2018 incident was triggered by medication side effects, or that her new mental health diagnosis and treatment eliminated Navarro's fear of future abuse.

Finally, the Court held that the record did not support the trial court's findings that a change in circumstance had occurred since the original DVRO was issued. In fact, the Court noted that Cervera had followed Navarro to South Carolina, further undermining the trial court's conclusion that she no longer posed a threat.

The Court ordered the DVRO renewed

#### **PRACTICE TIPS**

**Practice Tip 1: If the court accepts a restrained party's medical explanation for their abuse without additional evidence, show them this case.**

The Court of Appeal found that Cervera's claim that medication caused her behavior was not supported by substantial evidence. Courts must require competent, qualified evidence to support medical defenses.

**Practice Tip 2: If the court treats a DVRO violation as minor or dismisses it because it was "just an apology," show them this case.**

The Court of Appeal held that Cervera's email and text—sent while the DVRO was in place—were serious, knowing violations. A restrained party's motive for the violation does not excuse the conduct.

**Practice Tip 3: If the court denies renewal based on an unfounded change of circumstances, show them this case.**

The Court of Appeal found no substantial evidence that Cervera's move or time apart reduced Navarro's fear of future abuse—especially because she had followed Navarro to another state.

**Practice Tip 4: If the court focuses on the restrained party's explanations instead of the survivor's ongoing fear, show them this case.**

The Court of Appeal found the trial court gave too much weight to Cervera's explanations and not enough to Navarro's fear and sense of safety when it decided not to renew the DVRO.