



CASE ALERT

New Case Explains that Abuse Occurring in Other Countries and/or During Custody/Visitation Disputes Must Be Considered by the Trial Court

X.K. v. M.C. (2025) Cal.App.4th [2025 WL 2079528]

How Could This Case Help Your Clients?

- This is one of the few cases to clearly hold that trial courts may not **disregard or minimize abuse allegations** simply because they arise in the **context of custody and visitation disputes**.
- This is the first California appellate decision to expressly hold that **incidents of abuse occurring outside the United States** must still be considered when **deciding whether to grant or deny a DVRO**.
- This case **reaffirms several points of law** important for DVRO cases, such as:
 - **Using someone's immigration status** to threaten, pressure, or control them is a form of **coercive control**.
 - Trial courts must consider the **totality of the circumstances** when deciding whether to grant or deny a DVRO.

Summary of the Case

In this case, X.K., a Chinese emigrant, sought a DVRO against her ex-husband, M.C., a U.S. citizen. She described a history of abuse—some of which occurred when the couple lived in China—including physical and sexual abuse while she was pregnant and after childbirth, strangulation, and threats. She also alleged M.C. continued his pattern of coercive control once she returned to California with their daughter in 2022. He, for example, threatened to divorce her if she did not follow his family's rules, including being home every night and only working when their child was at school. He further threatened to kick her out of the residence and refused to let her use his car, limiting her to jobs within walking distance. M.C. also constantly changed his mind on whether he would assist X.K. with her green card application.

The trial court denied X.K.'s request, noting its belief that most of the issues involved disputes about custody and visitation and not abuse. The court also questioned whether it could consider abuse that happened multiple years ago in China.

The appellate court reversed, finding that the trial court erred when it determined X.K.'s allegations were "merely a dispute over custody and visitations that did not 'fall under the definition of abuse'" and dismissed her DVRO request. The appellate court explained that, if X.K.'s allegations of abuse were found to be credible, they could have established past acts of physical and sexual abuse and conduct that disturbed her peace. The appellate court further noted that the trial court should have considered all the evidence, including past acts of abuse occurring in China, to determine

whether M.C.'s recent conduct in California disturbed X.K.'s peace. As a result, the Court of Appeal remanded the case for a new hearing. (See [Fam. Code, §§ 6301, subd. \(d\), 6320, subd. \(c\).](#))

PRACTICE TIPS

1. If the trial court thinks the abuse is merely a custody/visitation dispute or disregards the abuse because it happened in the context of custody/visitation, show the court this case.
2. If the trial court refuses to consider abuse that occurred outside of the United States, show the court this case.
3. If the trial court says that **using someone's immigration status to threaten or control them is not abuse**, show the court this case.
4. If the trial court fails to consider the **totality of the circumstances** by not looking at all of the incidents of abuse when deciding whether to grant or deny a DVRO, show the court this case.

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