

GENDER BIAS YIELDS RESULTS

Restraining Orders handed out to women like candy!

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Although the courts are becoming enlightened as to the importance of fathers in children's lives and awarding fathers generous parenting time, the prevailing sentiment still resides in the stone ages when it comes to men obtaining permanent restraining orders against women. Although it is common knowledge that it is a cake walk for a woman to obtain a restraining order against a man if he so much as looks at her cross eyed, it is virtually impossible for a man to obtain a permanent restraining order against a woman.

My most recent disaster in the courthouse arose from a case where the husband was attempting to obtain a permanent restraining order against his wife (no divorce had been filed) after suffering years of physical abuse in the form of kicking, biting, punching, slapping with an open hand and being struck by or threatened with various objects including but not limited to crystal candle holders, brooms, knives, and cell phones. The husband had obtained a TRO after the wife had driven erratically with him and their 3 year old son in the car threatening to kill everyone. After coming home and with the assistance of her 14 year old son, she pulled a knife on my client. Additionally, there had been several outcries by the 3 year old that the older step brother had been sexually abusing him. The step brother is the victim in a sexual assault case filed against a 27 year old woman with whom he has a son.

After hearing numerous witnesses testify over the course of a two day hearing that they had actually seen the wife physically abuse the husband and were the recipients of the 3 year old's outcries, the court dismissed the TRO because the husband had called the wife, and thus, couldn't have felt that he was in imminent danger. The Court refused to allow the husband to rebut the testimony of the wife and testify that he called her to check on the welfare of the 3 year old who had been visiting the mother.

I had another case where the x-husband had sole care and control of the three minor children and the x-wife had supervised parenting time. The

x-wife had a myriad of documented emotional and psychological problems which resulted in a change of custody in favor of my client. Rather than comply with the recommendations of the special advocate and seek psychiatric treatment including psychological testing and comply with the provisions of supervised parenting time, the x-wife took it upon herself to appoint the school as the supervisor and began volunteering in the children's classrooms. The contact increased over the course of the semester, and escalated to the point where the mother attempted to kidnap the children at the school and was only stopped by school personnel who happened to observe the mother attempting to coax the children into her car. The school immediately called my client who obtained a TRO.

In dismissing the TRO, the court stated that the threat to the children was "not imminent" because there was a 10 day delay between the time that the incident occurred and the time that my client obtained the TRO (the court wasn't interested in hearing that my client worked during the day and was unable to travel to Douglas County to obtain the TRO any sooner). When I reminded the court that the mother was attempting to kidnap the children, the court replied that if that occurs, my client is welcome to file kidnapping charges.

In another case, my client attempted to obtain a permanent restraining order against his x-wife's significant other. She was not remarried. The significant other was viciously opposed to my client's existence. The x-wife and the significant other had begun a campaign to intimidate and threaten my client with the hope that he would simply move away. My client was the victim of the x-wife and significant other stalking him at his home, place of employment, health club, and even the doctor's office. He would find threatening notes left anonymously at his doorstep. He was followed over 100 miles when on a road trip. The significant other had become emboldened over the course of time and had gotten to the point where he broke my client's windshield, bashed in the side of his truck, threatened him with a gun and pushed and shoved him.

In declining to make the TRO permanent, the court indicated that since the defendant was intimately involved with my client's x-wife (who was there and testified) and because there were minor children, that my client and the significant other would by default see each other at pick ups and drop offs, school events, sporting activities, etc. Therefore, he wasn't

going to make the TRO permanent because it would be too tempting for my client to abuse the PRO and call the police when it was not warranted.

The good news is that if your male client is old and infirm or crippled at the hands of a woman, he most likely (there are no guarantees) will be able to obtain a permanent restraining order, although it might cost him \$10,000 over a 3 day hearing.

I am happy to report that I did obtain a permanent restraining order on behalf of an elderly man confined to a wheel chair who was being systematically abused by his x-wife. She would slap him, throw things at him, pour water on him and throw him out of his wheel chair. Mercifully, that hearing didn't go beyond a half day.

Another victory was obtained after a three day hard fought hearing where the x-girl friend of my client had stalked him at work, on the phone, at home, through his friends and finally kicked him in the leg resulting in torn ligaments necessitating knee surgery which effectively destroyed his ability to play competitive rugby. The poor guy came to the hearings on crutches and in obvious pain. The perplexing thing was that even in light of his client's admission on the stand that she kicked my client causing injuries, opposing counsel argued that it was my client who was the real threat, and thus, the TRO should be dismissed. Go figure!