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IN BRIEF

In partial reversal, the Second District held the trial court erred by declining to include parties' children as other protected parties in mother's DVRO against father, where undisputed evidence demonstrated father committed multiple instances of physical and sexual abuse against mother in the presence of children

[K.T. v. E.S. \(2025\) 109 Cal.App.5th 1114, 331 Cal.Rptr.3d 140, 2025 FA 2175](#). On May 30, 2023, mother filed a request for a DVRO against father. In her request, mother asked that the parties' three children be named as other protected parties in the DVRO. Mother also requested sole legal and physical custody of children and child support from father. In her DVRO request and declaration, mother described extensive physical and sexual abuse. For example, mother alleged that on June 13, 2022, while father was driving, mother was a passenger and the children were in the backseat, father hit mother in the face and then "slammed" her head against the car's middle console. The children, meanwhile, "yelled at him to stop." Mother also alleged that on June 18, 2022, while she was lying next to two of their children in bed, father entered the room and "severely beat" mother with a belt buckle. When the children woke up, father told them to "go back to sleep." Father then "forced himself sexually on [mother]" while "[t]wo of [the] kids were in the same room, on the same bed." In response to this incident, mother called the police who transported her to the hospital. Mother then moved from California to Houston, Texas, where she obtained a restraining order against father.

On December 24, 2022, mother allowed the children to spend part of the holidays with father. Even though father promised to return the children on a certain date, he instead abducted them from Texas, took them to Mexico, and then California. This was done without mother's knowledge or consent. Father finally responded to mother's request for the children by saying that she could see the children only if she returned to California and reconciled with him.

The trial court granted mother a TRO, which did not include the children as other protected parties. The trial court noted there was "[n]o showing of imminent risk of harm to children."

On August 7, 2023, the trial court held a hearing on mother’s DVRO request. When mother’s counsel attempted to elicit testimony about “some of the events that—that the children were present for,” the trial court interjected. Specifically, the trial court stated, “I recognize that you’re getting into child custody issues, but this doesn’t seem to me to be directly relevant to the [DVRO] that’s at issue.” During cross-examination, mother explained that since father’s abduction of the children, she has “begged him to return them.” Mother added, “I haven’t seen my daughters for seven months.” After being advised of his Fifth Amendment rights, father declined to testify.

The trial court (Los Angeles County’s Kronstadt) granted mother’s request for a DVRO but declined to add the children as protected parties under the DVRO. After incorrectly noting that mother did not include the children in her request for a DVRO, the trial court noted, “I do take your point ...that abuse that occurs in front of children is still certainly very traumatic to children and should not occur. However, there has been no credible evidence, at least, in front of this court regarding any physical or sexual abuse that has been sustained by the children in this case.” The trial court also awarded joint legal custody and temporary physical custody of the children to mother. Mother appealed, and the Second District affirmed in part and reversed in part.

The justices began their analysis by describing the relevant law. Per [Fam C § 6320\(a\)](#), courts may issue a DVRO enjoining a party from “disturbing the peace of the other party, and in the discretion of the court, on a showing of good cause, of other named family or household members.” In turn, “disturbing the peace,” for purposes of a DVRO, refers to “conduct that, based on the totality of the circumstances, destroys the mental or emotional calm of the other party.” The justices added that, based on the low standard of proof required under the act, the DVPA should be applied liberally.

With these legal principles in mind, the justices concluded the trial court made both an error in fact and an error in applying the law. The justices first noted that the trial court made a factual error by finding “the children were not listed as protected parties under [mother’s] current request.” In fact, mother asked in item 8 of her DVRO request that the parties’ three children be named as “other protected people.” For this reason, the justices reversed the trial court’s judgment.

Second, the justices concluded the trial court applied an incorrect legal standard when determining whether the children should be included in the DVRO. The justices noted there is no requirement that a petitioner in a DVRO proceeding demonstrate that the respondent directly abused the children, either physically or sexually, in order to add the children as other protected persons. Instead, [Fam C § 6320\(a\)](#) required a showing of “good cause” for inclusion based on the totality of the circumstances. The justices added that in determining whether good causes exists to extend a restraining order to include family members, courts must use common sense based upon the totality of the circumstances and, 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 justices further found that witnessing one parent’s domestic

abuse of another parent once, let alone multiple times, may constitute abuse of children in that it may qualify as disturbing the peace of another.

Applying this standard to the present facts, the justices concluded that mother demonstrated good cause exists to include the children in the DVRO. On June 13, 2022, father physical abused mother in front of the children and caused them to scream and tell him to stop. Five days later, father again physically abused mother by “severely beat[ing]” her with a buckle while in the presence of the children.

For these reasons, the Second District affirmed the trial court’s order in part and reserved in part, finding that good cause exists warranting inclusion of the parties’ children as other protected parties in the DVRO. CFLP § C.10.10.

Library References

11 Witkin, Summary of Cal. Law (11th ed. 2025) Marriage § 370

Hogoboom & King, [Cal. Practice Guide: Family Law \(The Rutter Group\)](#), ¶ 5:495

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