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Woman gets strong order of protection

Judge's comments deemed 'callous' to violence victims

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A state appeals panel on Tuesday ordered a domestic violence victim to receive the strongest type of protection after a Cook County judge imposed a much weaker type of order.

The panel also criticized the judge for being "callous and insensitive" to victims of domestic violence in his courtroom remarks in a case that's caught the attention of domestic-violence advocacy groups and legal clinics.

The 1st District Appellate Court found Illinois law required Cook County Circuit Judge Lionel Jean-Baptiste to grant a two-year plenary order of protection for Elisa Sanchez after he found her ex-boyfriend, Juan Jose Ramirez Torres, had abused her.

Jean-Baptiste entered a civil restraining order for Sanchez against Torres — a less restrictive type of order.

And the panel took Jean-Baptiste to task for his comments to Sanchez at the end of the trial court hearing. As quoted in the opinion, Jean-Baptiste said Sanchez had to "respect that [Torres] loves you and he still likes you."

The justices added they did not believe Jean-Baptiste understood the extent of his comment.

"Nevertheless, one questions why Sanchez should 'respect that [Torres] loves' her, particularly after he not only abused her, but also refused to accept any responsibility and blamed Sanchez for his own devastating

actions," Justice Michael B. Hyman wrote in the nine-page opinion.

Sanchez and Torres had a 17-year relationship and four children together until she told him in May 2014 that she wanted to end the relationship.

She alleges Torres became abusive toward Sanchez as a result, inflicting various kinds of physical, emotional, sexual and verbal abuse on her from May to November 2014.

Even after she received an emergency order of protection, she alleged Torres would still contact her through other means in clear violation of the order.

Sanchez sought a permanent and plenary order of protection, and, last year, testified in Cook County Circuit Court to Torres' abuse. She produced multiple photographs showing the injuries she sustained.

Torres denied Sanchez's allegations, saying he was the one who was struck.

At the end of the hearing, Jean-Baptiste denied Sanchez's request for a plenary order of protection. Instead, he entered a civil restraining order with a provision that prevents Torres from physically abusing Sanchez.

The order also required both parents to enter into a Talking Parents program and Torres to undergo alcohol and family counseling assessments.

A civil restraining order is notably weaker than a plenary order of protection, the panel noted. A plenary order allows violators to be arrested without a warrant. Abusers under the order must be entered into the Law Enforcement Agencies Data System so police officers can immediately determine if the order is being violated.

A civil restraining order, however, does not create a criminal record, nor does it prevent the abuser from possessing a firearm



Michael B. Hyman

for employment reasons.

Sanchez appealed to the 1st District Appellate Court seeking to receive a plenary order of protection.

Torres did not file a response brief and was not represented at the appellate proceedings. However, the panel agreed to hear the appeal, noting the simple nature of the case and finding it did not necessarily require Torres' input.

The panel found that under the Illinois Domestic Violence Act, the trial court "shall issue" an order of protection if abuse was found.

In Sanchez's case, it was clear she was abused by Torres, the panel said. And, therefore, the justices ruled, Jean-Baptiste is required by law to enter a plenary order of protection for her.

"A civil restraining order is simply no substitute for an order of protection. We hold that the [a]ct mandates the issuance of an order of protection once the victim makes a showing of abuse," Hyman wrote.

Eight nonprofit organizations — the Loyola University Chicago School of Law's Civitas Child Law Center, Chicago Volunteer Legal Services, the Chicago Metropolitan Battered Women's Network, the Sargent Shriver

National Center on Poverty Law, the Chicago Appleseed Fund for Justice, Life Span Center for Legal Services and Advocacy, The John Marshall Law School's Domestic Violence Clinical Advocacy Program and the Domestic Violence Legal Environment and Appeals Project filed a joint amicus curiae brief in support of Sanchez's appeal.

The organizations expressed concern that Jean-Baptiste's finding for a civil restraining order instead of a plenary order in a domestic violence case could be replicated in future cases.

"The concern was, if all we had was a restraining order, that really goes against the intent of the Illinois Domestic Violence Act," said Loyola University law professor Anita Weinberg.

Weinberg was also critical of Jean-Baptiste's remarks toward Sanchez, saying it's a "really harmful message to a victim of domestic violence." But she also said that he "didn't mean it that way."

Sanchez was represented by Jennifer Joyce Payne of LAF and two Los Angeles-based attorneys with Dentons — Michael J. Duvall and Kelly R. Graf. They did not return a request for comment.

The eight organizations were represented by Chicago-based attorney Scott T. Schutte, a partner with Morgan, Lewis & Bockius LLP, and his Washington, D.C., counterparts — Randall M. Levine, Stephanie Schuster and Clara Kollm. George Washington University law professor Joan S. Meier also represented DV LEAP.

Justices P. Scott Neville Jr. and John B. Simon concurred with the judgment and the opinion.

The case is *Elisa Sanchez v. Juan Jose Ramirez Torres*, 2016 IL App (1st) 151189