

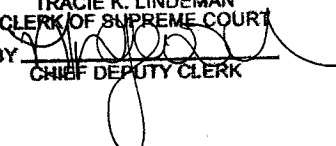
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April 20, 2016

APR 29 2016

Clerk of the Supreme Court of the State of Nevada
201 South Carson Street, Suite 201
Carson City, Nevada 89701

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

RE: ADKT 512: Comments RE: Proposed Rule Change to EDCR 5.18

Dear Supreme Court Panel Members:

This letter is written on behalf of local domestic violence shelter advocates and domestic violence attorneys from the Legal Aid Center of Southern Nevada. Having contact with domestic violence victims everyday through our work, we have become familiar with their needs in the family court protection order process. We reviewed the proposed changes to EDCR Rule 5 generally and were satisfied with the re-write. The only change we propose, however, pertains to EDCR 5.518(d)(B) which reads as follows:

*“(B) If a motion is filed in the other family division case **after** the TPO was granted and an extension or dissolution hearing is set in the TPO court, the extension hearing will proceed and the hearing master may make such interim orders on extension of the TPO and any related issues at the extension hearing and will remain in effect until the motion hearing before the district court judge.”*

We suggest that the proposed language in EDCR 5.518(d)(B) be changed to remove the last part of the last sentence that reads “and will remain in effect until the motion hearing before the district court judge” because it could adversely affect victims of domestic violence.

Firstly, we respectfully request that the line be removed because we believe it will encourage requests to the District Court to undo or dissolve protection orders issued by the TPO court for good cause shown. If a domestic violence victim has a need to file for a protection order and prevails by proving that domestic violence occurred, the protection order should not be subject to automatic review by the district court absent an objection to the TPO decision, a written request to dissolve the TPO or on the court’s independent decision to do so. We read “and will remain in effect until the motion hearing before the district court judge” as

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an automatic and unnecessary review of the TPO decision. In other words, the language invites challenge to the TPO. It may also have a “chilling effect” on the willingness of Commissioners and Masters to grant TPO request knowing that it will likely reviewed by a district court judge at the next motion hearing in the domestic case. This could place victims in more danger during the pendency of an action.

We also believe the proposed rule as written undermines the integrity of the TPO court by making its orders subject to automatic review rather than being reviewable after an objection to the order or written request for dissolution of the order. Once a victim makes the often difficult decision to file for the TPO and it is granted for good cause, it can be devastating to potentially lose the protection it affords in favor of a behavior order or dissolution.

Moreover, the standard of proof to obtain a protection order is much lower (to the “satisfaction of the court”) than the standard of proof in district court (“clear and convincing evidence”). While we realize the Court is trained and knows what standard to apply, in our practice, we have seen far fewer protection orders being extended in District Court than in TPO Court.

“Nevada, with a rate of 2.62 per 100,000, ranked first in the nation in the rate of women killed by men for the third year in a row according to the new Violence Policy Center (VPC) report “When Men Murder Women: An Analysis of 2010 Homicide Data” (vpc.org/studies/wmmw2012.pdf). The state has held the top position for five of the last six years.” Accordingly, our Court system should do everything possible to support victims of violence by making the process accessible and dependable. TPO Court serves a special and necessary function and victims deserve to have confidence in the viability of the orders from the TPO court.

NRS Chapter 33.080 states that a protection order may only be extended for one year. In California, it can be extended for 5 years. Some states do not place an expiration date on protection orders. We should do all we can in Nevada to keep meritorious protection orders in place and avoid unnecessary reviews of existing protection orders. We realize that the district court judge has the authority to modify or dissolve any protection orders at any time but we request that the proposed rule avoid language that would imply an automatic review of protection orders issued before a motion is filed in a domestic case.

For all the foregoing reasons, we respectfully request that part of the last line of the proposed rule be removed and that the following version be adopted:

“(B) If a motion is filed in the other family division case **after** the TPO was granted and an extension or dissolution hearing is set in the TPO court, the

extension hearing will proceed and the hearing master may make such interim orders on extension of the TPO and any related issues at the extension hearing.”

Respectfully submitted,

A handwritten signature in black ink, appearing to read "April Stokes Green". The signature is fluid and cursive, with the first name "April" being the most prominent.

April Stokes Green

Directing Attorney

Family Justice Project