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Each Threatening Phone Call Violated Protective Order, Top Court Affirms

By Alisa Bralove

A husband who made several threatening phone calls to his wife can be sentenced for each one as a violation of a protective order, the state's top court has held.

That amounts to 18 one-year sentences for David Triggs Jr. – one year for each threatening phone call the Montgomery County man placed to his wife over a four-day period.

“When a protective order requires an abuser to have ‘no contact’ with a victim, we conclude that repeated calls constitute separate acts and therefore separate offenses for the purposes of the sentencing provisions requiring penalties ‘for each offense’ in Section 4-509 of the Family Law Article,” Judge Lynne A. Battaglia wrote for the Court of Appeals.

Over the span of four days in September 2001, Triggs made dozens of phone calls to his now ex-wife, Pamela Triggs, in which he threatened her life and the lives of their three children.

This “reign of terror,” as Montgomery County Circuit Judge Ann S. Harrington called it, followed several years of abuse which included firing shots at his wife and raping her.

In the month before they separated, David Triggs only allowed his wife to sleep one hour a night. He also told the children to “tell mommy she doesn’t have long to live.”

Pamela Triggs got her first protective order against her husband in 1996 and her second on Sept. 26, 2000. The district court in Montgomery County amended the second order in March 2001, to say that David Triggs could have ‘no contact’ with his wife and must abide by the visitation schedule for the kids.

One month later, he violated that amended order by banging on his wife’s door in the middle of the night. He was convicted that July of violating the order and sentenced to 90 days, with 36 suspended and credit for 54 days, plus one year of supervised probation.

In September 2001, the Montgomery County Circuit Court issued a bench warrant for Triggs after he told his children that he wanted to put their mother in cement shoes. He was not arrested, though, and picked up his children that weekend for his scheduled visitation.

Two days later, he started calling his wife and saying he would kill her. He made over 50 phone calls in which he threatened her and the kids.

Eventually the police located David Triggs in Ocean City with the children, who were physically unharmed.

He was indicted on 43 charges, including the 18 counts of violating a protective order at issue in this appeal.

A jury convicted Triggs on those counts as well as 12 others: one count of telephone misuse, four counts of telephone harassment and seven counts of telephone threats. Harrington sentenced him to a total of 26 1/2 years.

The Court of Special Appeals affirmed the 18 convictions and sentences for violating the protective order, but vacated the sentences for harassment and telephone threats, holding that they merged under the rule of lenity. On Wednesday, the Court of Appeals affirmed that decision.

Triggs had argued that the calls should be viewed aggregately, but the court said the General Assembly did not intend it that way.

“In fact, where we construe the statutory language authorizing protective orders within the context of the domestic violence statute’s overall scheme, we discern a clear legislative intent to define each incident of domestic violence as a separate and punishable act,” Battaglia wrote.

Assistant Public Defender Bradford C. Peabody declined to comment on the court’s decision. Kathryn Grill Graeff, chief of the Attorney General’s criminal appeals division, did not return a call seeking comment.

WHAT THE COURT HELD

Case: David Triggs Jr. v. State of Maryland, CA No. 118, Sept. Term 2003. Reported. Opinion by Battaglia, J. Filed June 16, 2004.

Issue: Did the trial court err in sentencing the petitioner to a one-year sentence for each threatening phone call he made, in violation of a protective order?

Holding: No. When a protective order requires an abuser to have no contact with a victim, each phone call is considered a separate offense for sentencing purposes.

Counsel: Bradford C. Peabody for petitioner; Shannon Avery for respondent.

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