

Family Violence Prevention Fund

NEWS FLASH

Gonzales Ruling a “Serious Blow” to Victims of Violence Who Need Police Protection

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By a margin of seven to two, the U.S. Supreme Court ruled Monday that Jessica Gonzales cannot sue the Castle Rock police department for failing to enforce a restraining order against her violent ex-husband. At issue in *Town of Castle Rock, Colorado v. Jessica Gonzales* was whether victims of domestic violence have the right to sue if their local governments fail to protect them and their children from batterers.

“This ruling is a serious blow to victims of domestic violence who count on local police to protect them and their children,” said Family Violence Prevention Fund President Esta Soler. “By refusing to hold local governments accountable for damages when they fail to enforce restraining orders, the Court is allowing gross negligence to go completely unpunished. This is a terribly damaging ruling that may result in more family violence victims living in terror, and more domestic violence injuries and deaths.”

“Restraining orders aren’t worth the paper they are written on when police do not enforce them,” Soler continued. “Jessica Gonzales did everything right. She divorced her violent ex-husband. She recognized the threat and sought help from courts and police. When her children were in danger, she begged for help, even going to the police station to plead her case. But the police let her down and her three daughters died as a result. This is a sad day and a giant step backward for a nation that had been making progress in stopping domestic violence and helping victims.”

Facts of the Case

The case centered on a brutal crime. Jessica Gonzales sought and received a protective order in May of 1999 requiring her estranged, violent ex-husband to stay away from her and their three daughters, ages seven, nine and ten. Police failed to enforce the order, and her husband kidnapped the three girls from their yard in June of 1999.

Gonzales reported her daughters missing, pleading with local police over the course of eight hours for help – to no avail. She eventually reached her ex-husband on his cell phone, and he told her he was with the girls at a nearby amusement park. She called police to pass on the information and ask for help. She alleges they took no action, even after she called four times and went to the police station personally to seek assistance.

Simon Gonzales came to the police station some ten hours after the kidnapping, in the middle of the night. He opened fire with a handgun he had purchased that day. Police killed him and later found the three girls' bodies in his pick-up truck; Simon had killed them while they slept.

Colorado has a mandatory arrest law that requires law enforcement to use "every reasonable means to enforce" restraining orders like the one Jessica Gonzales obtained.

The Denver-based U.S. Court of Appeals for the 10th Circuit ruled six to five that Jessica Gonzales could sue Castle Rock for failing to enforce the restraining order because police failed to follow proper procedures and heed her repeated calls for help. But the town appealed, and the Bush Administration joined the case on behalf of the City, arguing to maintain the longstanding policy that individuals cannot go to court to invoke a right to law enforcement. Today the U.S. Supreme Court agreed.

"In ruling that there will be no financial consequences for the police failure, the Court today removed one critical incentive for police departments and local governments to enforce restraining orders," Soler added. "This ruling sends a dangerous message. Nobody wants to see police departments subjected to a crush of lawsuits that second guess every law enforcement decision. But there should be consequences to prevent a department from flatly refusing or negligently failing to enforce restraining orders."

Next Steps

"We will work with responsible departments to improve their understanding of the needs of victims, and to establish mechanisms of accountability for enforcing protection orders. We will explore legislative solutions to ensure greater accountability and oversight by public authorities and community members, so that local police departments' actions or failures do not further endanger victims," Soler continued. "And we will redouble our efforts to pass the *Violence Against Women Act of 2005*, which funds police training, improves protective order enforcement, and funds new prevention programs."

Justice Scalia delivered the Court's opinion, which was joined by Justices Rehnquist, O'Connor, Kennedy, Souter, Thomas and Breyer. Justice Souter filed a concurring opinion in which Justice Breyer joined. Justices Stevens and Ginsburg dissented.

The ruling is available at <http://www.supremecourtus.gov>