

# ***TEXAS LAWYER***

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## **Texas Appeals Court Says Past Violence Sufficient for Dating Protection Order**

**Vongontard v. Tippet; 1st Court of Appeals, Houston (TX); Family Law  
CASE-INFO: No. 01-03-00814-CV, 03-11-2004.**

FACTS: Gregory Vongontard and Misty Tippet broke up after two-and-a-half years of dating. Soon after, Vongontard came home drunk one night and began calling Tippet names. He backed her into a barn wall and then fought with his sister. Tippet said she was afraid but that Vongontard didn't touch her.

Two days later, when Tippet went to Vongontard's house to return some of his belongings, Vongontard wouldn't accept the belongings. He took the keys Tippet was returning, broke one and threw it.

Vongontard once went to Tippet's place of work, backed her into a corner, demanded his keys back and then left. Tippet said she was afraid.

The next month, Vongontard began calling Tippet repeatedly. He called her sounding intoxicated and demanded keys she claimed she'd already given him. He threatened to kill any guy Tippet was with.

Tippet's father said that one time after Tippet received a threatening message, he saw Vongontard's truck parked outside the house, though the father could not make out the license number, make or model.

Tippet sought a protective order against Vongontard. The above incidents were detailed, as well as three incidents that occurred while the couple dated. One where he came to the Tippet's vacation home drunk fought with Tippet and tried to hit her. Tippet's father made Vongontard come inside and stay the night. Another, Vongontard went to Tippet's place of work while drunk and pushed Tippet against the wall. The third incident was when Vongontard showed up drunk at Tippet's house and pushed her down on to the ground. Tippet's father called Vongontard's family to pick him up, but when they didn't, Vongontard stayed the night at the Tippet's.

The trial court entered the protective order, making findings that the couple had a previous dating relationship and that family violence had occurred and was likely to occur again. Vongontard appeals the factual and legal sufficiency of the evidence.

HOLDING: Affirmed.

After confirming that an appellate court has jurisdiction to review an appeal of a dating violence protective order, the court sets out the terms of Family Code §[71.0021, which defines “dating violence.” It means “an act by an individual that is against another individual with whom that person has or has had a dating relationship that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself.”

The evidence of past violence is legally sufficient because it shows that on three occasions while they were dating, Vongontard was drunk and angry, and he pushed Tippet, making her fear imminent physical harm.

The evidence of past violence is factually sufficient, the court continues, because the fact that Vongontard was twice allowed to spend the night at the Tippet’s was not an indication of whether Misty was scared but was instead an indication that the father did not want a drunk Vongontard to be on the road endangering himself or others.

The evidence of future violence is legally sufficient because in light of Vongontard’s past violent actions, the trial court could reasonably conclude that he would do something violent again.

The evidence of future violence is factually sufficient even though Tippet said she didn’t know if Vongontard would ever leave her alone, and even though the father could not make out the license number, make and model of the truck parked outside the house.

OPINION: Radack, C.J.; Radack, C.J., Jennings and Higley, JJ.

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