

Supreme Court rules police cannot be sued for how they enforce restraining orders

The Supreme Court recently ruled that police cannot be sued for how they enforce restraining orders. The decision ended a lawsuit filed by a Colorado woman who claimed police did not do enough to prevent her estranged husband from killing her three daughters.

The Case

On May 21, 1999, Jessica Gonzales obtained a restraining order limiting her husband's contact with her and her three daughters. According to Jessica Gonzales' complaint, Simon Gonzales abducted the girls on June 22, 1999 between 5 and 5:30 p.m. while they were playing outside.

From approximately 7:30 p.m. until 1 a.m. the next morning, Jessica Gonzales called the police station five times and met with police twice in person to have her restraining order enforced. At 3:20 a.m., Simon Gonzales opened fire at the Castle Rock police station with a semi-automatic handgun and was shot dead at the scene. The bodies of the three girls, ages 10, 9 and 7, were found in the cab of his truck.

Jessica Gonzales said that her restraining order should be considered property under the 14th Amendment and that it was taken from her without due process when police did not enforce it.

What the Court Said

Justice Antonin Scalia, writing for the majority, said, "The creation of a personal entitlement to something as

vague and novel as enforcement of restraining orders cannot 'simply go without saying.' We conclude that Colorado has not created such an entitlement."

The court said in a 7-2 opinion that Jessica Gonzales did not have a constitutional right to police enforcement of the court order against her husband under the 14th Amendment. This case would not prevent claims under other legal theories.

What This Case Means to Counties

If the court ruled the other way, it opened the way for similar lawsuits against municipal governments. In their appeal to the Supreme Court, Castle Rock argued that the decision could spur a "potentially devastating" flood of lawsuits.

For more information, contact CTSI at 303-861-0507.