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Judge's Domestic Violence Ruling Creates an Outcry in Kentucky

By FRANCIS X. CLINES

EXINGTON, Ky., Jan. 4 — The violent arena of domestic abuse litigation has grown a bit more volatile here, now that a judge has decided to hold two women in contempt of court for returning to men who had been ordered to stay away from them.
"You can't have it both ways," said Judge Megan Lake Thornton of Fayette County District Court in recently fining two women $100 and $200 respectively for obtaining protective orders forbidding their partners from contacting them, then relenting and contacting the men.

Ruling that the order was mutually binding, Judge Thornton also cited the men for contempt.

"It drives me nuts when people just decide to do whatever they want," said Judge Thornton, who is experienced in the state's thick domestic abuse docket, which produces close to 30,000 emergency protective orders a year. Kentucky officials say there is a virtual epidemic of abusive relationships in the state.

Judge Thornton's ruling has alarmed advocates for battered women, who plan to appeal it. The advocates say the finding goes beyond existing law and is unrealistic because some renewed contacts often prove unavoidable in domestic abuse cases, which involve economic and family dependency and other complications of daily living.

The state office on domestic violence has pointedly agreed, warning that the ruling could cause abused women to hesitate in bringing their plight before the courts for fear of being chastised for their trouble.

"The reality is it's easy to say they should never have contact," said Sherry Currens, executive director of the Kentucky Domestic Violence Association, an advocacy and legal protection group. "But we're talking about people in long-term relationships. They may have children in common. It's pretty hard to say, `Never speak again.' People have financial difficulties. They may love the partner. It's not an easy thing."

But Judge Thornton declared in court, "When these orders are entered, you don't just do whatever you damn well please and ignore them."

The ruling stunned Cindra Walker, the lawyer for the two women, who is with Central Kentucky Legal Services, which represents many of the thousands of indigent women caught in abusive relationships.

"For over five years, I've been in court practically every day on these abuse cases," Ms. Walker said, "and I've never before had a victim threatened with contempt."

"The domestic violence law is a tool for victims to use to be safe," not a device to punish them, she said.

One of the women in the ruling said she eventually moved back with her partner while the other had occasional contacts, Ms. Walker said.

Judge Thornton's office said judicial rules barred her from commenting on the cases. But her two rulings made clear that she expected the original orders against all contact to apply equally to the person suspected of abuse and the abused.

"They are orders of the court," the judge declared, according to court transcripts obtained by The Lexington Herald-Leader. "People are ordered to follow them, and I don't care which side you're on."

Carol Jordan, the director of the Governor's Office of Child Abuse and Domestic Violence, said she disagreed with Judge Thornton's ruling even as she sympathized with the professionals who must try to oversee violent domestic situations.

"These are tough cases for judges," Ms. Jordan said. "They are dealing with complex human emotions. They are dealing with danger."

But if the ruling stands, Ms. Jordan warned, some abused women will conclude that they will not be treated fairly if they seek refuge in the courts. This sort of ruling "absolutely increases abused women's level of risk" by seemingly encouraging their abusers, Ms. Jordan said.

In Kentucky, as in much of the rest of the nation, abuse victims have increasingly turned to the courts as protective orders have become more accepted, said Billie Lee Dunford-Jackson, assistant director of family violence law and policy for the National Council of Juvenile and Family Court Judges. Most judges "have been making clear to the batterers that the issue is between the state courts and them," Ms. Dunford- Jackson said, rather than a domestic issue between two parties.

A "sizable minority" of judges may still regard the conflicting parties equally in their rulings, she said, but newer state laws have increasingly put the focus on violent abuse as the main problem requiring state intervention.

Ms. Walker's two clients, Jamie Harrison and Robin Hull, declined to be interviewed. Ms. Walker, one of two legal service lawyers handling hundreds of abuse cases in 17 counties, said, "Our big concern now is the chilling effect this will have."

Two years ago, the Kentucky Legislature considered a proposal to apply the protective orders equally to the accused and the victim, Ms. Jordan said, but the notion of mutual protection, equating the two parties, is not part of state law.

Judge Thornton's ruling, she contended, will "establish a barrier that stops abused women from seeking protection of the courts."