
Freedom from Domestic Violence and the Enforcement of Restraining Orders: Town of Castle Rock v. Gonzales case

In *Town of Castle Rock v. Gonzales* (2005), the Supreme Court majority ruled that Gonzales Fourteenth Amendment was not violated. The Fourteenth Amendment states that a State shall not “deprive any person of life, liberty, or property without due process of law. The plaintiff Gonzales argued that her due process was violated because law enforcement failed to protect her property interest, the restraining order is a court issued order of protection that defines an entitlement to enforcement of her order (*Town of Castle Rock v. Gonzales*, 2005). Gonzales made several calls to the Town of Castle Rock Police Department stating that her ex-husband violated her restraining order against him by taking their three children without her approval.

Justice Scalia opinion stated that it is up to the discretion of the police officers to arrest the subject of the order because Colorado law did not create specific laws relating to personal entitlement to police enforcement (*Town of Castle Rock v. Gonzales*, 2005). There is no obligatory action stated that would take effect if a violation would occur if a violation happened by the subject.

The restraining order that was issued to the plaintiff by a state trial court had preprinted text on the back of the order for the restrained party and for law enforcement officials stating, “Officer shall use every reasonable means to enforce this restraining order. You shall arrest or seek a warrant for the arrest of the restrained person when the probable cause is identified as a violation (*Town of Castle Rock v. Gonzales*, 2005).

Justice Scalia had the best opinion concerning Gonzales case because the restraining order that was given does not necessarily states that the police have to arrest the subject. The term “shall” identifies the action is not mandatory; the restraining order gives law enforcement the option to use his or her discretion in the situation and to use the best method they see fit. The police officers used their discretion to measure the seriousness of the situation by telling Gonzales to call them if the children did not arrive by 10 p.m. that night and when she did, they told her to call at midnight. Although Gonzales told, the officers to enforce the restraining order they did not have a probable cause because within the restraining order, the subject location was unknown and he had the ability to spend time with his three children. The police officers only discretionary option would be to have probable cause to obtain a warrant because the subject location was unknown. Gonzales Fourteenth Amendment was not violated because a restraining order is not deemed as a property interest because it can accepted or denied at any time there are no claims to this government benefit, the police officers also used their discretion,

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and their actions were not malicious.

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