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GGs v. ACB – A Holistic and Balanced Approach to *Silver v. Silver* and Final Restraining Orders in Domestic Violence Cases

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On May 5, 2026, the Appellate Division decided *GGs v. ACB*, Docket No. A-3315-24. The court addressed whether a singular “sufficiently egregious” act of domestic violence is sufficient to demonstrate the need for a domestic violence victim to receive the protections of a Final Restraining Order (FRO). The caselaw in this area *does* provide for the entry of a FRO if the underlying singular offense is sufficiently egregious. However, contrary to established caselaw, the trial court disagreed and dismissed the Temporary Restraining Order (TRO).

The facts and procedural history are as follows.

The parties were in a brief dating relationship. On their second date, Plaintiff told Defendant that she did not intend to have sex with him. Defendant asked Plaintiff numerous times to explain her position and tried to pressure her into changing her mind. After the date, Defendant took Plaintiff home and later, via text, apologized for his behavior. Plaintiff did not intend to see Defendant again, but their mutual friend encouraged her to give him another chance. Plaintiff met Defendant at a public park and explained how their last date made her uncomfortable. Defendant stated that he understood, and Plaintiff agreed to go on another date.

The parties’ third date was in the late evening. Plaintiff wore baggy pajamas and went to Defendant’s house. Plaintiff intended just to go to sleep, but Defendant became annoyed that she came over just to sleep. Plaintiff agreed to watch a movie, and the couple started to kiss and then undress from the waist up. Plaintiff stopped Defendant from removing her pants, reiterating several times that she did not want to have sex with him. Defendant strangled and raped Plaintiff and then drove her home apologizing for his behavior. Plaintiff filed a TRO a few days later.

At trial, Plaintiff testified about the rape and strangulation, as well as their prior interactions. She testified that she would be attending the same college as Defendant in the fall, that she and Defendant would be in the same or adjacent buildings for classes, had mutual acquaintances, and Defendant knew where she lived and worked. She also testified that she plays softball and was afraid to go to the last few games of the season because Defendant works alongside the trainer for Plaintiff’s softball team. Plaintiff testified that she did not feel safe.

Defendant testified but denied Plaintiff’s allegations.

The trial court found Plaintiff was “more credible” and “inherently believable”. The Court found that Plaintiff proved by a preponderance of the evidence that Defendant had committed

a predicate act of sexual assault against her. Thus, Plaintiff had sustained her burden under the first prong of *Silver v. Silver*, 387 N.J. Super. 112 (App. Div. 2006). However, the trial court did not find that Plaintiff had met her burden under the second prong of *Silver, supra*, requiring the court to determine “whether a domestic violence restraining order should be issued.” *Silver, supra* at 127. The trial court noted that the parties live in different towns, had no previous history of domestic violence, and Defendant’s text messages noted his remorse for his behavior. The trial court believed that it had to conclude that Plaintiff was in “immediate danger” to issue a FRO.

After issuing its opinion dismissing the TRO, the trial court told Defendant that if he sees Plaintiff on campus that he must turn the other way and not have contact with her. The trial court characterized the denial of the FRO as Defendant’s “getting a break”.

The Prevention of Domestic Violence Act (PDVA) was adopted to “assure victims of domestic violence the maximum protection from abuse the law can provide.” *GM v CV*, 453 N.J. Super. 1, 12 (App. Div. 2018). The application of the law should be “liberally construed to achieve its salutary purposes.” *Cesare v. Cesare*, 154 N.J. 394, 412 (1998). The burden on Plaintiff is by a preponderance of the evidence and is two-fold: whether an act(s) of domestic violence as defined by N.J.S.A. 2C:25-19(a) has occurred; and, whether a FRO is necessary to protect Plaintiff from “immediate danger or to prevent further abuse.” *Silver v. Silver*, 387 N.J. Super. 112 (App. Div. 2006).

The first step requires plaintiff to demonstrate a domestic violence relationship exists. N.J.S.A. 2C:25-19(d) defines a victim of domestic violence as

any person who is 18 years of age or older and who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present household member or was at any time a household member. “Victim of domestic violence” also includes any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant. “Victim of domestic violence” also includes any person who has been

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also address any dispositional preferences expressed by the alleged incapacitated person.

N.J.S.A. 3B:12-24 permits the alleged incapacitated person, or someone acting on that person's behalf, to request a jury trial on incapacity. In the absence of a jury request, **Rule 4:86-6(a)** provides that the court shall determine incapacity after taking testimony in open court. With the consent of counsel for the alleged incapacitated person, however, the court may dispense with oral testimony and rely upon the affidavits or certifications submitted under Rule 4:86-2(b). In all events, the court must independently determine incapacity by clear and convincing evidence.

Once incapacity is established, **Rule 4:86-6(c)** requires the court to determine whether the guardianship should be general or limited and whether it should encompass the person, the estate, or both. The inquiry must be individualized; a person who lacks capacity in some areas may retain the ability to make other important life decisions.

In selecting the guardian, **N.J.S.A. 3B:12-25** establishes a statutory order of preference. The court should first consider a spouse or domestic partner, followed by heirs or friends, with the Public Guardian generally serving as a later alternative. The statute also permits the court to consider a surrogate previously selected by the individual through a durable power of attorney, health care proxy, or advance directive.

Finally, **Rule 1:7-4(a)** requires the court to make factual findings and state its conclusions of law. A conclusory determination that a proposed family guardian is "not appropriate" does not permit meaningful appellate review and does not satisfy the court's obligation to explain how the evidence supports its decision.

Why the Court Decided a Moot Appeal

F.M.W. died while the appeal was pending, technically rendering the dispute over the identity of her guardian moot. The Appellate Division nevertheless issued a published opinion because the procedural questions were significant and capable of repetition while evading appellate review.

The decision is particularly instructive. Guardianship matters often involve elderly or medically vulnerable individuals. By addressing the merits despite mootness, the Appellate Division signaled that the procedural safeguards implicated in the case extend beyond the individual proceeding and warrant guidance for future guardianship proceedings throughout the State.

The opinion also recognizes the magnitude of what is at stake. The right to govern one's own affairs and determine one's destiny is grounded in the liberty protections of Article I, Paragraph 1 of the New Jersey Constitution. A guardianship judgment may transfer some or all of that decision-making authority to another person. For that reason, expediency, the parties' consent or absence of a dispute, or even apparently compelling evidence cannot substitute for the court's findings or the court's procedural safeguards required to protect the alleged incapacitated person.

A Practical Reminder

Following *F.M.W.*, courts and practitioners should ensure that every guardianship proceeding includes:

1. A properly verified complaint supported by the required professional evaluations;
2. Appropriate notice and representation by counsel for the alleged incapacitated person where the incapacitated person is not already represented;
3. Investigation of existing powers of attorney, health care directives, and the individual's expressed wishes;
4. Compliance with Rule 4:86-6(a)'s hearing requirements and findings of incapacity by clear and convincing evidence, even when incapacity is uncontested;
5. A separate determination of whether the guardianship should be limited or general;
6. Limited discovery and a plenary hearing, including testimony and cross-examination, when the selection of the guardian is contested;
7. Consideration of the statutory preference for appointing family members and of any previously selected surrogate decision-makers; and
8. Detailed findings of fact and conclusions of law explaining both the scope of the guardianship and the selection of the guardian.

The central lesson of *F.M.W.* is straightforward: when a proceeding may remove an individual's most fundamental decision-making rights, strict adherence to the governing statutes and Court Rules is indispensable. 🖐️

subjected to domestic violence by a person with whom the victim has had a dating relationship.

For the purposes of *GGG v. ACB*, the parties were in a dating relationship having gone on three (3) dates. [dating relationship defined].

A plaintiff then must prove by a preponderance of the evidence that an act of domestic violence, as defined by *N.J.S.A. 2C:25-19(a)*, occurred. The statute outlines nineteen (19) separate criminal offenses that are relevant for purposes of the PDVA. Those offenses are as follows:

- (1) Homicide [N.J.S.2C:11-1](#) et seq.
- (2) Assault [N.J.S.2C:12-1](#)
- (3) Terroristic threats [N.J.S.2C:12-3](#)
- (4) Kidnapping [N.J.S.2C:13-1](#)
- (5) Criminal restraint [N.J.S.2C:13-2](#)
- (6) False imprisonment [N.J.S.2C:13-3](#)
- (7) Sexual assault [N.J.S.2C:14-2](#)
- (8) Criminal sexual contact [N.J.S.2C:14-3](#)
- (9) Lewdness [N.J.S.2C:14-4](#)
- (10) Criminal mischief [N.J.S.2C:17-3](#)
- (11) Burglary [N.J.S.2C:18-2](#)
- (12) Criminal trespass [N.J.S.2C:18-3](#)
- (13) Harassment [N.J.S.2C:33-4](#)
- (14) Stalking [P.L.1992, c.209 \(C.2C:12-10\)](#)
- (15) Criminal coercion [N.J.S.2C:13-5](#)
- (16) Robbery [N.J.S.2C:15-1](#)
- (17) Contempt of a domestic violence order pursuant to subsection b. of [N.J.S.2C:29-9](#) that constitutes a crime or disorderly persons offense
- (18) Any other crime involving risk of death or serious bodily injury to a person protected under the "Prevention of Domestic Violence Act of 1991," [P.L.1991, c.261 \(C.2C:25-17 et al.\)](#)
- (19) Cyber-harassment [P.L.2013, c.272 \(C.2C:33-4.1\)](#)

For the purposes of *GGG v. ACB*, Plaintiff did prove by a preponderance of the evidence that Defendant sexually assaulted and strangled her.

The next step pursuant to *Silver v. Silver, supra*, is whether there is a necessity for a FRO to protect the victim. The court in *Silver* did make clear that a single act of domestic violence does not *automatically* equate to the issuance of a FRO. *Silver, supra* at 124. See also *Corrente v. Corrente*, 281 *N.J. Super.* 243 (App. Div. 1995). The court in *R.G. v. R.G.*, 449 *N.J. Super.* 208 (App. Div. 2017) advises courts to look at the history of the parties' relationship to determine whether the second prong of *Silver* has been met.

N.J.S.A. 2C:25-29(a) provides a non-exhaustive list of factors for the court's consideration in this regard:

- (1) The previous history of domestic violence between the plaintiff and defendant, including threats, harassment and physical abuse;
- (2) The existence of immediate danger to person or property;
- (3) The financial circumstances of the plaintiff and defendant;
- (4) The best interests of the victim and any child;
- (5) In determining custody and parenting time the protection of the victim's safety;
- (6) The existence of a verifiable order of protection from another jurisdiction; and
- (7) Any pattern of coercive control against a person that in purpose or effect unreasonably interferes with, threatens, or exploits a person's liberty, freedom, bodily integrity, or human rights with the court specifically considering evidence of the need for protection from immediate danger or the prevention of further abuse. If the court finds that one or more factors of coercive control are more or less relevant than others, the court shall make specific written findings of fact and conclusions of law on the reasons why the court reached that conclusion. Coercive control may include, but shall not be limited to:

- (a) isolating the person from friends, relatives, transportation, medical care, or other source of support;
- (b) depriving the person of basic necessities;
- (c) monitoring the person's movements, communications, daily behavior, finances, economic resources, or access to services;
- (d) compelling the person by force, threat, or intimidation, including, but not limited to, threats based on actual or suspected immigration status;
- (e) threatening to make or making baseless reports to the police, courts, the Division of Child Protection and Permanency (DCPP) within the Department of Children and Families, the Board of Social Services, Immigration and Customs Enforcement (ICE), or other parties;
- (f) threatening to harm or kill the

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individual's relative or pet;
(g) threatening to deny or interfere with an individual's custody or parenting time, other than through enforcement of a valid custody arrangement or court order pursuant to current law including, but not limited to, an order issued pursuant to Title 9 of the Revised Statutes; or
(h) any other factors or circumstances that the court deems relevant or material.

It is these factors and the application of the second prong of *Silver* that was relevant for this case. The *GGC* court interpreted the risk factor by quoting from *CR v. MT*, 257 N.J. 126, 146 (2024), a case decided under the Sexual Assault Survivor Protection Act (SASPA), and stated “the plain language of factor two thus requires a court to consider whether there is a chance that a survivor may be exposed to physical danger, risk, or injury, or may be exposed to something emotionally unwelcome or unpleasant that could make them feel uncomfortable, unhealthy, or unhappy.” The evaluation of this factor was also deemed to be “permissive” and “lenient” and “easily satisfied.” *Id.* The *GGC* court further qualified this analysis by noting that “the greater the level of violence that is proven, the easier it is for a plaintiff to satisfy the second prong of the *Silver* analytical paradigm.”

The *GGC* court then reaffirmed the holding in *Cesare*, *supra*, that a court must consider *all* the factors set forth in the statute to determine the need for a FRO, but is not “obligated to find a prior history” before entry of a FRO as it is just one in several factors to evaluate. The court held that the prior history of domestic violence is not a *material element* to be proven in every case in order to grant a FRO. A “sufficiently egregious” act of domestic violence may be sufficient under the law for an FRO notwithstanding the lack of prior history between the parties. *See Cesare, supra*.

The *GGC* court qualified what would be considered a “sufficient egregious” act by referencing the decision in *AMC v. PB*, 447 N.J. Super. 402, 417 (App. Div. 2016). The *AMC* court, quoting *Silver, supra*, opined that an act of domestic violence which “inherently involves the use of physical force and violence”

would support the entry of a FRO. *See also SK v. JH*, 426 N.J. Super. 230 (App. Div. 2012). The *GGC* court further honed its definition of “sufficient egregious” by stating that an offense that involves “serious physical violence” such as one subject to the No Early Release Act, N.J.S.A. 2C:43-7.2, may be appropriate for the entry of a FRO without a prior history, whereas a lesser offense without the prior history may not be appropriate for the entry of an order. Finally, the *GGC* court cautioned that finding a serious predicate act does not automatically require a court to issue a FRO, and that there are “no mandatory FROs” under the law. Each court must assess risk of future violence based on a case-sensitive analysis, but when faced with a greater level of egregious behavior the need for an FRO increases.

Focusing on the strangulation aspect of the case, the *GGC* court, quoting *Commonwealth v. Moore*, 709 SW 3d 241, 258 (2025), stated “strangulation is one of the most accurate predictors for the subsequent homicide of victims of domestic violence...there are few offenses as indicative of an intent to control, harm and/or kill than strangulation.” The court held that strangulation by itself can be “sufficiently egregious” for the entry of a FRO, although still cautioning that it is not automatic.

Finally, in assessing the second prong of *Silver*, the *GGC* court noted that “the goal of a permanent FRO is to ensure not just immediate but long-term protection. The PDVA, in other words, does not require proof of a threat so imminent that it would be expected to come to fruition instantaneously.” Future potential incidents may not be similar to the predicate act in the TRO, but future interactions may be “harmful to a victim who is already scarred and made vulnerable.” A FRO limits interactions between the parties to protect the victim's well-being as a whole.

Based on its analysis, the *GGC* court reversed the trial court's dismissal of the TRO and remanded for further proceedings. Interestingly, the Defendant-Respondent never submitted a brief for the appellate panel's consideration.

The *GGC* case affirms many aspects of TRO/FRO caselaw by reiterating that courts must weigh a variety of factors before deciding whether to grant a restraining order. The court also took a “common sense” approach to this analysis by holding that a single egregious act of domestic violence can fulfill the factors outlined in *Silver*. The *GGC* opinion reminds courts to review cases holistically and not just check boxes in a list. Courts must endeavor to review the entire case and facts to make a ruling. This opinion should guide attorneys who practice in this area to remind the court that the *Silver* factors must be analyzed qualitatively and not quantitatively in order to fulfill the goals of the PDVA to protect the victims of domestic violence. 🐾