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OPINION NO. 2011-07

DOMESTIC VIOLENCE; PROTECTION ORDERS; THREAT: NRS 33.020 extends to all victims of domestic violence regardless of whether there has been actual physical contact by the alleged perpetrator.

Janette Speer, Deputy City Attorney
City of Henderson
Post Office Box 95050
Henderson, NV 89009

Dear Ms. Speer:

Your office has requested an opinion regarding the interpretation of NRS 33.020 extending protections to all victims of domestic violence regardless of whether there has been actual physical contact by the alleged perpetrator.

QUESTION

Does NRS 33.020 extend to all victims of domestic violence regardless of whether or not there has been actual physical contact by the alleged perpetrator?

ANALYSIS

Requirements for issuing temporary and extended orders in domestic violence matters are set forth in NRS 33.020. NRS 33.020(1) reads, in pertinent part, "If it appears to the satisfaction of the court from specific facts shown by a verified application that an act of domestic violence has occurred *or* there exists a threat of

domestic violence, the court may grant a temporary or extended order.” NRS 33.020(1) (emphasis added).

The Nevada Supreme Court has stated that when “the words of the statute have a definite and ordinary meaning, this court will not look beyond the plain language of the statute, unless it is clear that this meaning was not intended.” *Harris Associates v. Clark County Sch. Dist.*, 119 Nev. 638, 641–642, 81 P.3d 532, 534 (2003). The court has further opined, “We have stated that ‘words in a statute will generally be given their plain meaning, unless such a reading violates the spirit of the act, and when a statute is clear on its face, courts may not go beyond the statute’s language to consider legislative intent.’” *Meridian Gold Co. v. State ex. rel. Dep’t of Taxation*, 119 Nev. 630, 633, 81 P.3d 516, 518 (2003) [quoting *Pellegrini v. State*, 117 Nev. 860, 873–74, 34 P.3d 519, 528 (2001)].

It is clear from the plain meaning of the statute that a court may issue temporary or extended orders in circumstances where there is an act of actual domestic violence or there exists a threat of domestic violence. An act which constitutes domestic violence is defined in NRS 33.018(1), which reads, in pertinent part:

Domestic violence occurs when a person commits *one of the following acts* against or upon the person’s spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person’s minor child or any other person who has been appointed the custodian or legal guardian for the person’s minor child:

- (a) A battery.
- (b) An assault.
- (c) Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform.
- (d) A sexual assault.
- (e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:

- (1) Stalking.
- (2) Arson.
- (3) Trespassing.
- (4) Larceny.
- (5) Destruction of private property.
- (6) Carrying a concealed weapon without a permit.
- (7) Injuring or killing an animal.
- (f) A false imprisonment.
- (g) Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.

NRS 33.018(1) (emphasis added).

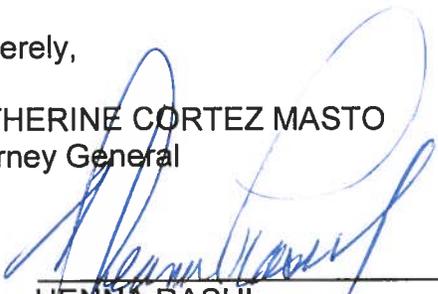
Based on the aforementioned statute, victims of domestic violence entitled to temporary protection orders as described in NRS 33.020 are victims of at least one of the many acts described in NRS 33.018(1)(a)–(g). NRS 33.020 further extends temporary protection orders to victims who only need be threatened with any of the foregoing acts of domestic violence.

CONCLUSION

NRS 33.020 extends to persons who are not only victims of actual acts of domestic violence as described in NRS 33.018, but also to victims who are in situations where only a threat of domestic violence exists. Consequently, NRS 33.020 extends to all victims of domestic violence regardless of whether there has been actual physical contact by the alleged perpetrator.

Sincerely,

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By: 

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