

Workplace Violence Restraining Order Protects City Employee from Threats at Public Meetings

09.04.2020

Because true threats are not constitutionally protected speech, the California Court of Appeal has affirmed a workplace violence restraining order against an individual who made credible threats of violence against a city employee at public meetings.

Over the course of several weeks, an individual attended at least three meetings of the Los Angeles and Pasadena City Councils, during which he directed various profanities, threats, and anti-Semitic gestures toward a Los Angeles Deputy City Attorney. This individual also publicly disclosed the attorney's home address and threatened him with violence. Based on this repeated misconduct and violation of city council meeting rules, the City of Los Angeles petitioned the trial court for a workplace violence restraining order under California Code of Civil Procedure section 527.8.

Section 527.8 allows a public- or private-sector employer to seek a court order to protect an employee who has suffered unlawful violence or credible threats of violence at the workplace. "Unlawful violence" includes any assault, battery, or stalking, and a "credible threat of violence" is "a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose."

The trial court ordered the individual to stop harassing, contacting, stalking, threatening, or engaging in acts of violence against the attorney and from disseminating the attorney's home address online or in any public forum. The court further tailored the order to allow the individual to attend council and committee meetings at Los Angeles City offices as long as the individual stays at least 10 yards away from the attorney.

The individual appealed, arguing that the order is unwarranted and violates his First Amendment rights. The Court of Appeal found that the order is warranted because the threats were credible, the repeated disclosure of the attorney's home address served no legitimate purpose, and the circumstances of the threats, including the individual's angry demeanor, supported the conclusion that the threats were serious. The Court of Appeal also found that the order is constitutionally permissible because the portions of the order that apply to speech are based on specific prior threatening conduct that was not protected by the First Amendment.

For more information on Section 527.8 and workplace violence restraining orders, please contact **Charles G. Bakaly IV**. You can also see his article, "**Preventing Workplace Violence: How California Public Entities Can Protect Their Employees Through Workplace Violence Restraining Orders**" in California Special Districts.