SUPREME COURT OF THE UNITED STATES

# **Town of Castle Rock *v.* Gonzales**

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SOCI 360: Sociology of Law

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## Syllabus

The respondent, Jessica Gonzales, filed a complaint in the federal District Court asserting that the petitioner, the Town of Castle Rock, had violated her rights under the Due Process Clause of the Constitution after the restraining order against her estranged husband was not maintained. Gonzales' husband abducted and murdered her three children, despite Gonzales' numerous requests to the police for a search and arrest. The District Court initially dismissed Gonzales' complaint, ruling that the Due Process Clause does not allow her to sue the local government for its failure in enforcing a restraining order. However, the Court of Appeals for the Tenth Circuit had discovered that Gonzales does have legitimate procedural due process claim: she had a "protected property interest in the enforcement of the terms of her restraining order," which the police and local government had ultimately violated.

## Opinion of the Court

Hanna Yoshida delivered the opinion of the Court.

We decide in this case whether the holder of a restraining order can bring a procedural due process claim against a local government for its failure to actively enforce the order and thus protect the holder from violence. Moreover, the case also examines if the holder of the restraining order has a protected property interest in the enforcement of their restraining order.

The respondent asserts that the petitioner, the Town of Castle Rock, Colorado, had violated her rights under the Due Process Clause of the United States Constitution through not following the fair procedures that she should have received as the holder of the restraining order.

Similar to the tragic situation that had occurred in *DeShaney* v. *Winnebago County Department of Social Services,*[1] where the state had failed to protect a child against private violence, the problem here is the application of the Due Process Clause of the Fourteenth Amendment in a private setting. Whereas in *DeShaney*, the government did not take action to remove the child from the father's custody despite receiving numerous complaints regarding the abuse, in this case, the respondent is arguing that the government had violated her rights of protecting her property interest. The property interest that the respondent claims to have is not explicitly stated, and it is under the assumption that her children cannot be considered her "property." In her restraining order, any other forms of property interest cannot be found, proving that Gonzales did not have any constitutionally-protected property interest at the time of the situation. Therefore, under this context, it can be ruled that since Gonzales did not have a constitutionally-protected property interest in enforcing the restraining order, she cannot argue that the police had violated her rights under the Due Process Clause.

Moreover, Gonzales' restraining order does not state that the police should actively enforce the order and did not designate mandatory government action to be taken. Because these conditions were assumptions, rather than legal conditions, the police and other government institutions are not legally designated to take action. Therefore, the local government, under legal conditions, did not violate her rights and did not fail to actively enforce the order. Accordingly, the judgment of the Court of Appeals is reversed.

*It is so ordered.*

[1] *DeShaney v. Winnebago County Department of Social Services*, Oyez, https://www.oyez.org/cases/1988/87-154

## Concurring Opinion

The Court's decision is justified because the Town of Castle Rock did not violate Jessica Gonzales' rights in the Due Process Clause since she did not have a constitutionally-protected property interest in the enforcement of the restraining order. The Court had ruled based on the interpretation of her rights regarding property under the Clause and the conditions stated in her restraining order. However, it is important to also consider the overall definition of the Due Process Clause and what rights citizens should be granted under it. The Due Process Clause promises to protect people of their life, liberty, and property. That being said, to what extent the state should intervene in each individual's private life to protect these rights is always very vague and can vary state-by-state, even case-by-case.

In *DeShaney*, the Due Process Clause does not apply because the incident had occurred in a private space, a space that the government technically does not have a responsibility to protect. In fact, if the government had intervened much earlier, it could have also generated a problem because the father in that situation did have sole custody. Similarly, though what had happened with Jessica Gonzales and her daughters is terribly tragic, to what extent the police should have intervened in this situation remains a question. The Due Process Clause ensures the rights of "life, liberty, and property," but it does not say nor does the law enforce the police to protect those rights; the police protecting those rights is an implication rather than the law.[2] Therefore, Gonzales' argument that the police of the Town of Castle Rock had violated her rights under the Due Process Clause cannot be justified, since it is not required under the law that they take action to protect those rights.

[2] *Procedural Due Process Civil*, Justia, available at: https://law.justia.com/constitution/us/amendment-14/05-procedural-due-process-civil.html

Dissenting Opinion

The issue presented in this case is much wider in scope than just the interpretation of the Due Process Clause in the Fourteenth Amendment. This case and *DeShaney* are examples of situations when our country had yet again failed to protect the rights and lives of our own children. As the United States is the only country in the United Nations to have not ratified the U.N. Convention on the Rights of the Child, it raises the question of why our country is not taking measures to protect child rights. If the U.N Convention on the Rights of the Child had been ratified in the United States, then this case would have been ruled differently from the beginning. Under Article 3 of the U.N. Convention on the Rights of the Child:

> "States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures." [3]

When ruling this case, the majority had only considered the interpretation of the Due Process Clause, as well as the rights that are granted to Jessica Gonzales and her estranged husband. Yet, not once did we discuss the rights granted to the children that were killed. As much as Gonzales does have the rights to her children and control over them, each child also has their own individual rights.

With both the husband and children being dead, it is unclear whether the children had actually wanted to spend time with their own father, contrary to what Gonzales had wanted for her children. If this was the case, then Gonzales does not have the right to restrict her children's

[3] UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: http://www.ohchr.org/en/professionalinterest/pages/crc.aspx

contact with the father, under Statement 3, Article 9 of the U.N. Convention of the Rights of the Child, which states that "States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests." [4]

That being said, the government, including the police, is responsible for ensuring that the rights of a child are also ensured in our society, one of the rights being the right to life. Gonzales had asked for help in protecting her children, but the government had ignored her repeated pleas, resulting in this unfortunate situation. This case is not only about whether Gonzales' property rights were protected or not; it concerns the fact that our country was not able to protect the lives of the members in our community.

In addition, it is important to also consider that our country had taken efforts to protect the lives and rights of people that are seeking asylum, such as in the *Matter of Kasinga*,[5] but is clearly not taking the same actions to protect our own children. In re Kasinga's rights to an asylum, on the basis of gender-based persecution, were eventually granted due to her International Human Rights. These child rights that are outlined in the U.N. Convention of the Rights of the Child are also under the Universal Declaration of Human Rights. In other words, the government is responsible for protecting these innate human rights, including child rights. If our government had agreed to protect Kasinga under her human rights, then it only seems logical that the same government protects the children in our own neighborhoods.

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[4] *Id*.

[5] *In re Fauziya Kasinga*, 3278, United States Board of Immigration Appeals, 13 June 1996, available at: http://www.refworld.org/cases,USA_BIA,47bb00782.html

The Court had only taken into consideration the Due Process Clause and what Gonzales had stated in her restraining order. However, it is crucial to understand that these universal human rights and child rights extend past the boundaries of our country. Until we take a step forward to legally enforce the government to protect the rights and lives of the children in our society, similar cases will unfortunately repeat. In this case of *Town of Castle Rock* v. *Gonzales*, the local police and our government had failed to protect the human rights of an individual and her children that ultimately resulted in violence. For the reasons I have given, I dissent the Court's decision to rule that the government had not violated the rights of Jessica Gonzales and her children.