

Survey of Family Law Cases 2004-2013

2010 Family Law Survey

DOMESTIC VIOLENCE

The Adams County District Attorney appeals the district court's ruling that no domestic violence evaluation could be required of defendant Disher who was convicted of harassing his ex-girlfriend in People v. Disher, 224 P.3d 254 (Colo. 2010). Under Colorado's domestic violence statute, a finding of **domestic violence** requires the defendant to complete a treatment evaluation and a treatment program in addition to serving whatever sentence is imposed. Under C.R.S. §18-6-800.3, a perpetrator of a crime and his or her victim must be, or have been, in an "**intimate relationship**" for the crime to constitute domestic violence.

Disher was arrested and charged with harassment of his ex-girlfriend, M.P. Despite testimony from M.P. that she and Disher had "dated exclusively" for a time, the court held there was no evidence of an intimate relationship between the two because no testimony was offered as to a sexual relationship. Because a domestic violence evaluation is not required unless the parties have had a sexual relationship, the court refused to order an evaluation of Disher.

C.R.S. §18-6-800.3(2) defines domestic violence as, among other things: "an act or threatened act of violence upon a person with whom the actor is or has been involved in an intimate relationship." Intimate relationship is defined as: "a relationship between spouses, former spouses, past or present unmarried couples, or persons who are both the parents of the same child regardless of whether the persons have been married or have lived together at any time."

The court stated that evidence of a sexual relationship is not necessary to establish the existence of an intimate relationship. The meaning of the word "intimate" is not synonymous with "sexual." Intimacy is a broader concept that includes, but is not limited to, sexual intimacy. The word "intimacy" can be modified by the word "sexual" to specifically denote intimacy of a sexual nature, but intimacy itself is more expansive than just sexual intimacy. Yet, the relationship must be more than that of a roommate, friend, or acquaintance; there must be a romantic attachment or shared parental status between the parties. However, whether an intimate relationship is sexual is not in itself determinative. A sexual relationship may be an indicator, but never a necessary condition, of an intimate relationship. Reading a requirement of sexual contact into the definition of intimate relationship would greatly reduce the scope of the statute. Couples that do not have sexual relations would not be covered.

M.P.'s testimony that she had an exclusive dating relationship with Disher evidences the type of interpersonal connection that the statute contemplates as it tries to curb relationship violence.