



LEGAL UPDATE

COLLEGE ROOMMATES MAY NOT BE ELIGIBLE FOR 209A PROTECTION

S.J. v. T.S., 103 Mass.App.Ct. 166 (2023).

RELEVANT FACTS

The plaintiff and the defendant were college roommates from January – March 2022. They were assigned their dorm room from the university and had no prior relationship.

On March 10, 2022, the defendant struck the plaintiff on the side of the head while they were in their dorm room. After being struck, the plaintiff left for a period of time. When the plaintiff returned, the defendant physically attacked him again.

On March 11, 2022, the plaintiff obtained a temporary abuse prevention order against the defendant. At the extension hearing on March 25, 2022, the defendant moved to dismiss the order arguing that they were not “household members” for purposes of MGL c 209A. The court extended the 209A order and the defendant appealed.

DISCUSSION

The purpose of MGL c 209A is to “prevent violence in the family setting.” MGL c 209A § 1 defines “family or household members” as people who:

- a. are or were married to one another;
- b. are or were residing together in the same household
- c. are or were related by blood or marriage;
- d. have a child in common regardless of whether they have ever married or lived together; or
- e. are or have been in a substantive dating or engagement relationship.

For specific guidance on the application of this case or any law, please consult your supervisor or your department’s legal advisor.

The only question in this case was whether the parties were “residing together in the same household” for purposes of MGL c 209A.

In Silva v. Carmel, 468 Mass. 18 (2014), the court found that intellectually disabled individuals living in a State-licensed residential facility were not “household members” under MGL c 209A. The court reasoned that the phrase “residing together in the same household” must be interpreted in context with the other categories listed under “family or household members.” The court found that, while the living situation of the parties in Silva had some “home-like” features, the parties lacked the “family-like connection” that would exist in the other categories of family or household members.

When determining whether people who are living together qualify as “family or household members” under MGL c 209A, the court must consider whether the parties shared a “family-like” connection. Each case must be considered individually keeping in mind several factors, including:

1. whether the living arrangement was voluntary;
2. the nature of the physical living space, including how much of it is shared;
3. the length of the parties’ relationship; and
4. the nature of the relationship and interactions, including whether they engaged in communal living activities.

No one factor is dispositive.

In this case the court found that the parties lived together for approximately two months and had been assigned to the dorm room by the university. There was no evidence that they socialized together, ate meals together, or had a “socially interdependent relationship.” Based upon the facts of this case, the court found that the parties did not meet the definition of “family or household member.” For that reason, the plaintiff was not eligible for a protective order under MGL c 209A.

The abuse prevention order was vacated.

PRACTICE TIP

MGL c 209A § 6 requires officers to take certain action “whenever any law officer has reason to believe that a family or household member has been abused or is in danger of being abused.” Subsection 7 states that an “arrest shall be the preferred response” whenever an officer witnesses or has probable cause to believe that a person has committed a misdemeanor involving abuse or committed an assault and battery. This statutory right of arrest ONLY applies if the people involved are “family or household members.” Officers responding to reports of misdemeanor behavior between roommates should consult their supervisor and evaluate the factors listed in S.J. v J.T. to determine whether this statutory right of arrest applies.

For specific guidance on the application of this case or any law, please consult your supervisor or your department’s legal advisor.