

Disarming Domestic Abusers: Why SCOTUS Must Uphold Protective Orders in *U.S. v. Rahimi*

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In early 2020, Zackey Rahimi allegedly assaulted his ex-girlfriend, throwing her to the ground, forcing her inside a car and smashing her head against the dashboard. Upon noticing a bystander in the parking lot, he grabbed a gun and fired at the witness. Later, Rahimi threatened his ex-girlfriend, telling her that if she told anyone about the incident, he would shoot her too. Despite Rahimi's threat, his ex-girlfriend filed for and received a civil protective order, forbidding Rahimi from — among other prohibitions — being within 200 yards of her house, following and abusing her and possessing a firearm. Rahimi went on to violate the order multiple times, contacting the victim on social media, going to her house in the middle of the night and eventually being found in possession of a rifle and a pistol (Planas 2023).

Had Rahimi's weapons not been discovered when they were, there may have been a very different ending to this story. On average, 70 women a month are shot and killed in the United States by their intimate partner, accounting for nearly two-thirds of intimate partner homicides overall, according to data from the Centers for Disease Control and Prevention (CDC) (Everytown Research & Policy 2019). In 76% of intimate partner homicides and 85% of attempted intimate partner homicides, there was also at least one prior instance of stalking.

Because of the civil protective order in place, law enforcement was able to confiscate Rahimi's guns, and he was charged and convicted with unlawful firearm possession. Under federal law, a person under a civil protective order is prohibited from possessing guns for the duration of the order – two years from the date of issue in Rahimi's case (Willinger 2023). The law stems from a 1996 amendment to the 1968 Federal Gun Control Act (U.S. Department of Justice 2013). After almost 30 years, however, the future of this law is uncertain. Rahimi appealed his conviction to the District Court for the Northern District of Texas, claiming that prohibiting someone from possessing firearms while under a protective order was unconstitutional under the Second Amendment. The District Court rejected his appeal, and Rahimi went on to appeal his case in the Fifth Circuit Court of Appeals. Initially, the Fifth Circuit rejected his appeal too. However, following the landmark New York State

Rifle and Pistol Association v. Bruen Supreme Court decision in 2021 (Supreme Court of the United States 2021), the Appeals court revisited their decision and reversed course, claiming that a new precedent had been set and that it was indeed unconstitutional to deny Rahimi his access to firearms (United States Court of Appeals for the Fifth Circuit 2023).

On November 7, 2023, the Supreme Court heard oral arguments concerning this case, with a decision expected to be released in June or July of 2024, according to Johns Hopkins University's Center for Gun Violence Solutions (Roskam 2023). Sixty domestic violence organizations have already signed on to an amicus brief – a persuasive legal document submitted by entities not directly party to a case, intended to aid justices in making an informed ruling (Supreme Court of the United States 2023). The brief urges the Court to reverse the Fifth Circuit Court's decision. It is important to note that *U.S. v. Rahimi* only challenges firearm possession prohibition for those under civil protective orders — regardless of the ruling, firearm purchase and possession will still be illegal for individuals convicted of domestic violence felonies or misdemeanors in a criminal court. Some argue that these latter prohibitions are sufficient to protect domestic abuse victims, and that preventing firearm possession for those who are “only” under civil protective orders is unnecessary.

Although this viewpoint might seem reasonable at first glance, it betrays a fundamental lack of understanding of the dynamics of domestic violence. More than half of domestic violence victimizations are not reported to police, according to the Department of Justice (Morgan and Truman 2020). Although there are myriad reasons why victims may not want to press charges against their abuser, one of the most common is that victims do not believe making a report will yield consequences for their abuser (National Domestic Violence Hotline 2024). This belief is not unfounded — according to a 2014 study, only 29% of single-charge misdemeanor domestic violence cases result in conviction, and three-quarters of “felony” domestic violence cases either do not result in criminal conviction or are prosecuted as a misdemeanor (Nelson 2014). Assuming an abuser is charged and arrested, pretrial detention is not standard across states; abusers are often released shortly after their arrest, prior to their trial. This offers a dangerous window of time for them to return to their victims and inflict further harm or death.

For survivors who do not want to press charges and those whose abusers are released on bail, civil protective orders offer an alternative form of protection — especially orders prohibiting firearm possession. A 2012 literature review revealed that victims who receive protective orders report a greater sense of safety and psychological well-being, and the presence of a protective order is associated with an overall reduction in violence from perpetrators (Russell 2012). The efficacy of protective orders is further strengthened when firearm possession restrictions are enforced. According to a 2017 study, states with laws that prohibit individuals under domestic violence protective orders from possessing guns and require relinquishment of firearms in their possession saw 14% lower intimate partner firearm homicide and almost 10% lower intimate partner homicide overall, compared to states without mandatory relinquishment laws (Díez et al. 2017).

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Increased enforcement of existing protective orders and implementation of laws across the country requiring firearm relinquishment from those under protective orders is key for further improving the efficacy of these orders and increasing survivor safety – but in order to do so, baseline legal protections for survivors must be maintained. To this end, it is essential that the Supreme Court uphold the constitutionality of firearm prohibition for individuals under domestic violence protective orders in *U.S. v. Rahimi*.

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