

## **Intimate Partner Sexual Abuse:**

### **CIVIL CASE STUDY**

#### **ELENA GALVAN V. ALBERTO GALVAN**

Elena Galvan has been married to Alberto Galvan for twenty-one years. She appears pro se in Family Court intake part seeking, through a court officer acting as interpreter, an order of protection. The family has no history with the court system.

In her petition, she alleges that she would like her husband to obtain help for a drinking problem. She asserts that when he is intoxicated he howls outside the home and sings loudly, embarrassing her. She states further that despite her being a “good wife,” Mr. Galvan visits prostitutes and makes no effort to hide his conduct. While, she says, he has not physically abused her, she finds that he is increasingly erratic in his behavior and she is fearful of him. She feels he is a “good father” to their six children and “only wants him to get help.”

In response to your questioning, she states that they discussed their marital problems with Father Rodriguez, the priest at their church. Rodriguez told her that she should do as her husband wishes in order to maintain a healthy marriage. Her husband now seems to feel that he can do whatever he pleases with her. When pressed for further detail, she begins to cry and does not continue her testimony, saying only, “I can’t bear it if he gives me another baby. Please, your Honor, make him stay away from me.”

Under the statutory standards of your jurisdiction, you are concerned that the standard for issuance of an order of protection has not been met.

#### **Q1.**

**At this point you may:**

**[Choose all that apply]**

- **Dismiss the petition and instruct her that the Family Court is not a rehabilitation clinic.**
- **Inform Ms. Galvan of the availability of services through a domestic violence agency that assists victims in court.**
- **Set a return date for the petition, allowing for service on Mr. Galvan, but not issue an order of protection until further evidence can be presented.**

**--or--**

- **Issue a temporary order of protection that does not exclude Mr. Galvan from the home but directs him not to “harass, intimidate, or annoy” his wife.**
- **Include, in the temporary provision, a direction to refrain from drinking alcoholic beverages.**

**Supplemental Petition Request:**

You decide to issue a summons for Mr. Galvan to return to court, but have not yet issued an order of protection.

Before the return date, Ms. Galvan returns to court with a supplemental petition. Her face is bruised. In her petition, she alleges that after she had Mr. Galvan served with the summons, he “pushed me down and yelled that I cannot take his home away. Then he tore off my blouse, struck me on the face, and choked me until I was unconscious. When I regained consciousness, I was very wet in my vaginal area, and I believe that he had sexual relations with me.”

She reiterates that she does not want her husband to go to jail. When you ask why, she begins to cry, and states that he would be deported and that she would be left alone to care for their six children.

She says, “He is a good father. Just not such a good husband, sometimes. He needs help.” With the assistance of an advocate from Safe at Home, and through a translator, she testifies as follows:

“I came to this country from the Dominican Republic in 1990. I am 39 years old. I have six children. My sons are 16, 11 and 5 and my daughters are 14, 8 and 3. My husband, Alberto is a good friend of my sister’s husband. I speak very little English. I want to take English classes, but my husband never let me. He always said that between my job with the cleaning service and the kids I barely had time to cook and clean for him as it was.

Now I will tell you that Alberto Galvan has beaten me since before we got married. It continued throughout my pregnancies. I thought my brother-in-law would get him to stop, but he didn’t want to get involved. I went to the priest who married us. He counseled me about the sanctity of marriage, and my duty as a wife to accept my husband’s will.

I know my duty as a wife. I was raised to know it. I watched my mother and my aunts submit to my father and my uncles. But now it’s getting worse and worse. What will happen to my kids if he kills me? My sister and her husband agreed to let me and the kids stay with them, but I don’t know for how long. When I told Alberto I was moving out, he cut up my clothes, including my uniform for work.

I am here to get an order of protection against him, custody of the children, child support, and restitution to replace my clothes. If he wants to see the kids, the visits should be supervised.

My husband also wants custody of the children. He told me that if I go to court he's going to get an order of protection against me. He's twice my size! When he tried to take the kids away from me, I called the police. When they finally came, Alberto said I hit him first, and they arrested both of us, even though I was the only one with the bruises and the black eye. But the officers didn't speak Spanish and Alberto speaks very good English.

I don't like to come here. No one speaks my language. People are mean to me because I don't understand them and they don't understand me. But I understand enough to know they think I'm not worth helping. A woman I met in the waiting room at Safe at Home—she's Dominican too—told me they don't care about immigrants here. They think our men beat us up because that is the Dominican way, and the courts should stay out of it.

The last time I was here the interpreter who helped me was a member of our church. He told me I should be ashamed of myself for bringing such a private matter to public attention. I believe that he did not interpret my words correctly for the judge. I also wondered if he, or the judge, or my husband, will call immigration and if they will deport me. Even if they don't call, who knows what will happen now that I have been arrested?

Maybe things will get better soon. Maybe Father Rodriguez and the interpreter are right. Or maybe now that Alberto knows that I'm serious about this—I never moved out before—he'll change. We've been together since I moved here, and he is the children's father."

**Q2.**

**From the point of view of Elena Galvan, what issues affect her access to justice?**

**Q3.**

**From your point of view as a judge, what issues are relevant to your concerns and responsibilities?**

**Q4.**

**Does the fact that she was arrested influence your determination of her petition?**

- Yes
- No

**Q5.**

**Assuming the evidence adduced at the hearing supports Elena Galvan's version of the events, what relief would you grant her:**

- **Do you grant the order of protection?**

- **Who gets custody of the children?**
- **Do you award supervised visitation?**
- **Do you award child support?**
- **Do you grant the restitution?**