

Week 7

THE DUE PROCESS CLAUSE AT WORK

Section B
(Feb 22, 2008)

CASTLE ROCK V. GONZALES

No. 04-278 (June 27, 2005)

● FACTS

- Divorce Proceedings, May 21, 1999
- The Terms of Restraining Order (TRO) by a Judge
- The Ex-husband's TRO Violation, June 22, 1999
- Repeated Reports to the Town's Police Department
- "Failure" of Police to Enforce the TRO
- Resulted in the Murder of Mrs. Gonzales 3 Daughters and the Death of Mr. Gonzales

THE STRUCTURE OF GONZALES' LAWSUIT

- Gonzales complained that Castle Rock violated the Due Process Clause of the Fourteenth Amendment and sought damages under 42 U.S.C. 1983
- Because its police department had “an official policy or custom of failing to respond properly to complaints of restraining order violations” and “tolerated the non-enforcement of restraining orders by its police officers.”

- **The Due Process Clause of the Fourteenth Amendment**

- “No State Shall . . . deprive any person of life, liberty, or property, without due process of law.”
- **42 U.S.C. 1983**
- “Every person, under color of any statute, ordinance, regulation, custom, or usage, of any state . . . subjects . . . any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and law, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress.”

- **Established (Case Law) Principles**
- State action
 - Under color of law, custom, and usage
- Deprivation of life, liberty, or property
 - Entitlement of benefits
- Substantive due process
 - Protection of substantive rights
- Procedural due process
 - Fundamental fairness
- Liability
- Damages
 - Monetary damages
 - Punitive damages

- **Facts continues:**

- Federal District Court dismissed the due process claim for failure to state a claim upon which relief could be granted.
- The 10th Circuit of Appeals reversed.
- Gonzales appealed to the U.S. Supreme Court.

- **Question before the Court**

- Whether Colorado law and the TRO created a property interest for Gonzales that is protected by the Due Process Clause (a novel question)

● **Opinion of the Court**

- Justice Scalia delivered a 7-2 majority opinion, concluded that Colorado has not created such an entitlement;
- And held further that “the benefit that a third party may receive from having someone else arrested for a crime generally does not trigger protections under the Due Process Clause.”
(Constitutional Case Law)

● **Underlying Rationale**

- The origin of the property right?
- Property interest is not created by the Constitution but by state law and common law understanding.
- It is more than a unilateral expectation, but a legitimate claim of entitlement (Board of Regents v. Roth, 1972)
- A benefit is not a protected entitlement if government officials may grant or deny it in their discretion (Kentucky Dept of Corrections v. Thompson, 1989).

- Enforcement of the Restraining Order cannot be considered “mandatory”
- Because it provides the exercise of discretionary authority.
 - A peace officer shall use every reasonable means to enforce this restraining order.
 - A peace officer shall arrest, or if any arrest would be impractical under the circumstances, seek a warrant for the arrest of the restrained person when the peace officer has information amounting to probable cause
- **Dissent**
- The special-duty argument
- **Your own sense of justice**