

More on DVPOs: What is a 'Dating Relationship'?

In my last post, [Ex Parte DVPOs](#), I promised more on ex parte DVPOs. But the Court of Appeals issued an important decision this week on another aspect of Chapter 50B – the definition of 'dating relationship' – so I'll come back to ex parte orders later.

Act of Domestic Violence

Two elements are required to prove an act of domestic violence:

1. That one of the acts listed in [GS 50B-1\(a\)](#) was committed upon the aggrieved party or a minor child residing with or in the custody of the aggrieved party; and
2. That the act was committed by someone with whom the aggrieved party has or has had a personal relationship.

[G.S. 50B-1.](#)

Personal Relationship

We have a number of opinions interpreting the act element but much less guidance on the relationship requirement.

The statute states that personal relationship means that the parties:

- (1) Are current or former spouses;
- (2) Are persons of opposite sex who live together or have lived together;
- (3) Are related as parents and children, including others acting in loco parentis to a minor child, or as grandparents and grandchildren - except no order of protection against a child or grandchild under the age of 16;
- (4) Have a child in common;
- (5) Are current or former household members;
- (6) Are persons of the opposite sex who are or have been in a dating relationship.

[G.S. 50B-1\(b\).](#)

Before this week, we had one case addressing these definitions - *Tyll v. Willets*, 748 SE2d 329 (2013)(trial court cannot assume siblings are current or former household members).

Dating Relationship

[Thomas v. Williams](#), decided this week on July 7, 2015, is our second appellate opinion addressing the definition of personal relationship –specifically, the dating relationship in [G.S. 50B-1\(b\)\(6\)](#). Especially now when younger members of our society rarely if ever refer to their romantic relationships as ‘dating’, it is not obvious what a plaintiff needs to show to establish this relationship. [Thomas](#) gives some much needed guidance.

[Thomas v. Williams](#)

Plaintiff Caroline Thomas and defendant Kevin Williams met in April 2014 and “dated” for less than three weeks. “Dated” is the term used in the opinion. There is nothing in the case indicating whether “dated” means that the parties went to dinner and a movie two or three Friday nights, met for coffee on a couple of occasions, hung out with mutual friends a few times, or something else.

On May 1, 2014, Caroline told Kevin she had no interest in continuing the relationship and asked him to stop calling her. But Kevin continued to attempt to contact Caroline through phone calls, voicemails and text messages. In June, 2014, Caroline filed a 50B proceeding and the trial court entered a DVPO after concluding Caroline and Kevin had been in a dating relationship and that Kevin’s conduct throughout May and June “placed plaintiff in fear of continued harassment that rises to such a level as to inflict substantial emotional distress.”

Kevin appealed, arguing that he and Caroline did not have a personal relationship. In affirming the trial court’s conclusion that the parties were in a dating relationship, the court of appeals noted that [GS 50B-1\(b\)\(6\)](#) offers some guidance by stating two things:

1. A dating relationship is one wherein the parties are romantically involved over time and on a continuous basis during the course of a relationship; and
2. A “casual acquaintance or ordinary fraternization between persons in a business or social setting is not a dating relationship.”

Because neither party argued that they never actually dated – Kevin argued only that they did not date very long – the court does not discuss at all the type of activities that actually constitute dating. Instead, the court held that the only issue to be resolved in this case was “how long a “continuous” “romantic” relationship must exist in order for it to exist “over time.”

In answering this question, the court held that the term ‘dating relationship’ in this context should be interpreted broadly enough to cover a wide range of ‘romantic’ relationships. To support this conclusion, the court noted that the exclusion of only “casual acquaintances” and people who merely “fraternize” with each other indicates a legislative intent to exclude from the definition of dating relationship “only the least intimate of personal relationships.” According to the court, this expression of legislative intent coupled with the rule of statutory construction that remedial statutes

such as the 50B statute be interpreted broadly, means that the mere fact that a relationship is “short-term” does not “categorically preclude” that relationship from being one covered by Chapter 50B.

Instead, the court listed “six non-exhaustive factors” that should be used to determine if a dating relationship existed:

1. Was there a minimal social interpersonal bonding of the parties over and above [that of] mere casual [acquaintances or ordinary] fraternization?
2. How long did the alleged dating activities continue prior to the acts of domestic violence alleged?
3. What were the nature and frequency of the parties' interactions?
4. What were the parties' ongoing expectations with respect to the relationship, either individually or jointly?
5. Did the parties demonstrate an affirmation of their relationship before others by statement or conduct?
6. Are there any other reasons unique to the case that support or detract from a finding that a “dating relationship” exists?

[Thomas.](#)

Applying these factors to the case at hand, the court found that dating for less than three weeks “appears to exceed the minimal social interpersonal bonding” discussed in factor #1 and the fact that plaintiff became afraid of defendant after less than three weeks addressed factor #2. The fact that factors #3, 4 and 5 were not addressed by the trial court order was “not dispositive.” With regard to factor #6, the court found it significant that defendant continued to harass plaintiff for two-to-three months after plaintiff tried to end the relationship.

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Still many questions about dating, but at least now we have factors and legislative intent.