

Honorable Wendy Million
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Chair, Committee on the Impact
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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)	Supreme Court No. R-17-0026
)	
Petition to Repeal Rule 25(g),)	Comment to Petition to Repeal
Arizona Rules of)	Rule 25(g), Arizona Rules
Protective Order Procedure)	of Protective Order Procedure
_____)	

The Committee on the Impact of Domestic Violence and the Courts (CIDVC) has authorized the Honorable Wendy A. Million, CIDVC chair, to file this comment to Petition No. R-17-0026 on the committee's behalf.

DISCUSSION

Rule 25(g)¹, Rules of Protective Order Procedure, has withstood three prior attacks (R-09-0045, R-12-0007, and R-15-0016) on Second and Fourth Amendment grounds. The most recent iteration of this rule was adopted by the Supreme Court in 2015 and reads:

Rule 6(E)(4) --

¹ The Arizona Rules of Protective Order Procedure were revised in their entirety in 2015, with the revised rules taking effect January 1, 2016.

e. Other Relief:

1. The judicial officer may grant relief necessary for the protection of the alleged victim and other specifically designated persons proper under the circumstances. A.R.S. § 12-1809(F)(3).
2. The judicial officer shall ask the plaintiff about the defendant's use of or access to weapons or firearms. If necessary to protect the plaintiff or other specifically designated person, the judicial officer may prohibit the defendant from possessing, purchasing or receiving firearms and ammunition for the duration of the Injunction Against Harassment.

A.R.S. § 12-1809(F)(3) authorizes a judicial officer, when issuing an Injunction Against Harassment, to “[g]rant relief necessary for the protection of the alleged victim and other specifically designated persons proper under the circumstances.” In enacting this statute, the Legislature did not limit the type of relief a judicial officer can grant to protect the plaintiff and other persons shielded by the injunction. Under this statutory authority, a judicial officer has the discretion to prohibit a defendant from possessing firearms for the protection of the plaintiff and other protected persons.

A judicial officer, in weighing the plaintiff’s safety, can make reasonable and necessary provisions to safeguard the plaintiff. If a judicial officer orders the

defendant to possess no firearms for the duration of the Injunction Against Harassment, the judicial officer also will enter orders for the defendant to surrender the firearms to a law enforcement agency within a specified period of time. A defendant also has a right to contest the issuance of the Injunction Against Harassment. If a contested hearing request is conducted, the defendant may also raise the issue of the firearms prohibition at that time.

CONCLUSION

For the reasons stated above, CIDVC respectfully asks the Court to deny Petition R-17-0026.

Respectfully submitted this 18th day of May, 2017.

/s/
Honorable Wendy A. Million
Magistrate, Tucson City Court

cc: Mike Palmer, Petitioner

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