

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION ONE

County of Los Angeles v. Niblett

County of Los Angeles v. Niblett · No. B327744 · Decided November 26, 2025

SUMMARY

The California Court of Appeal affirmed a three-year workplace violence restraining order issued under Code of Civil Procedure section 527.8 against a County of Los Angeles fire-department mechanic. The court held that substantial evidence supported the finding that the appellant’s reference to a prior workplace shooting constituted a credible threat of violence, and rejected his First and Second Amendment challenges. The opinion also discusses alleged artificial-intelligence-related miscitation in the appellant’s brief and notes that counsel was ordered in a separate ruling to show cause why sanctions should not be imposed.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division One
WRITING FOR THE COURT	Bendix, Acting Presiding Justice; Bendix, Acting P. J.; Weingart, J.; M. Kim, J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division One
DECIDED	November 26, 2025
DOCKET	B327744
DISPOSITION	affirmed
PROCEDURAL POSTURE	Niblett appealed from a three-year workplace violence restraining order issued under Code of Civil Procedure section 527.8. The Court of Appeal reviewed the order for evidentiary sufficiency and rejected constitutional and other challenges.
STANDARD OF REVIEW	For an evidentiary challenge to a workplace violence restraining order, the court applies a highly deferential substantial-evidence standard while accounting for the clear-and-convincing burden of proof: whether the record as a whole contains substantial evidence from which a reasonable fact finder could have found it highly probable that the fact was true. The appellate court views the record favorably to the prevailing party and defers to credibility determinations, evidentiary conflicts, and reasonable inferences. Constitutional issues may receive

	independent review when properly raised, but independent review is not de novo reweighing of the evidence.
PRECEDENTIAL VALUE	Published in part; the court's holdings concerning the restraining order, mootness, statutory interpretation, and constitutional challenges are precedential. The artificial-intelligence and potential-sanctions discussion was excluded from publication.
PARTIES	Neill Francis Niblett v. County of Los Angeles

TOPICS

injunctions

mootness

appellate procedure

first amendment

second amendment

PRACTICE AREAS

civil procedure

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remedies

QUESTIONS PRESENTED

1. Whether substantial evidence supported the finding that Niblett made a credible threat of violence under Code of Civil Procedure section 527.8.
2. Whether section 527.8 required proof of an immediate threat of violence or subjective intent to harm.
3. Whether Samuel could be protected even though Niblett's statement was not expressly directed at Samuel.
4. Whether the restraining order violated Niblett's First Amendment rights.
5. Whether the firearm restriction violated Niblett's Second Amendment rights under *United States v. Rahimi*.
6. Whether the appeal should be dismissed as moot because the restraining order might expire before appellate resolution.
7. Whether Niblett forfeited additional claims by failing to adequately raise them in his opening brief or raising them for the first time in reply.

HOLDINGS

1. Even assuming the appeal would become moot when the restraining order expired, the court exercised its inherent discretion to decide the merits because the finding of a credible threat could cause reputational harm and the case presented issues of public interest concerning appellate-process integrity.
2. Section 527.8 does not require proof of an immediate threat of violence or subjective intent to harm. A credible threat is a knowing and willful statement or course of conduct that would place a reasonable person in fear for safety and serves no legitimate purpose.
3. Substantial evidence supported the trial court's finding, by clear and convincing evidence, that Niblett's reference to the prior shooting was a credible threat of violence.

4. An employee need not be expressly identified in a generalized workplace threat to be protected under section 527.8 if the employee is a logical target of the threat.
5. The restraining order did not violate the First Amendment because a credible threat of violence satisfying section 527.8 is unprotected speech.
6. Niblett failed to establish that the firearm restriction in the restraining order violated the Second Amendment, and the trial court was not required to conduct the three-part analysis proposed by Niblett before imposing the restriction.
7. Niblett forfeited his section 527.3 claim and additional arguments by failing to adequately develop them in his opening brief or raising them for the first time in his reply brief.

KEY QUOTATIONS

“An employer subjected to generalized threats of workplace violence may obtain relief under section 527.8 on behalf of an employee who is a logical target of the threats” (22)

“if the elements of section 527.8 are met by the expression of a credible threat of violence toward an employee, then that speech is not constitutionally protected and an injunction is appropriate.” (24)

FACTUAL BACKGROUND

Niblett was a senior mechanic in the County fire department, and Samuel was an assistant chief and Niblett's supervisor. Niblett had repeatedly raised his voice to Samuel about work decisions, and during one confrontation he shouted profanities at Samuel from close range. Days later, Niblett told a fire-department secretary, "If they don't change things in this department, they're going to have another situation like they had with Tatone," referring to a prior incident in which a firefighter fatally shot another firefighter. The trial court found the statement was a credible threat of violence and issued a three-year restraining order protecting Samuel, including firearm restrictions.

PROCEDURAL HISTORY

The County petitioned for a workplace violence restraining order protecting Assistant Chief Samuel S. from Niblett. After a January 18, 2023 hearing, the superior court found by clear and convincing evidence that Niblett had made a credible threat of violence and issued a restraining order effective for three years. Niblett timely appealed on March 3, 2023. The Court of Appeal exercised discretion to reach the merits notwithstanding possible mootness and affirmed.

DISPOSITION

affirmed

CASES CITED

- Goldstein v. Superior Court (2023) 93 Cal.App.5th 736, 747
- Association for Los Angeles Deputy Sheriffs v. County of Los Angeles (2023) 94 Cal.App.5th 764, 772 fn. 2, 773-774, 776-777

- City of San Jose v. Garbett (2010) 190 Cal.App.4th 526, 537-543
- Technology Credit Union v. Rafat (2022) 82 Cal.App.5th 314, 323-324
- Schmidt v. Superior Court (2020) 44 Cal.App.5th 570, 581-582
- Thompson v. Asimos (2016) 6 Cal.App.5th 970, 981
- In re D.P. (2023) 14 Cal.5th 266, 276, 282, 286
- Vernon v. State of California (2004) 116 Cal.App.4th 114, 120
- R.D. v. P.M. (2011) 202 Cal.App.4th 181, 183-184, 189-190
- Scripps Health v. Marin (1999) 72 Cal.App.4th 324, 334-336
- Parisi v. Mazzaferro (2016) 5 Cal.App.5th 1219, 1228
- United Grand Corp. v. Malibu Hillbillies, LLC (2019) 36 Cal.App.5th 142, 146, 156, 165 fn. 6
- USS-Posco Industries v. Edwards (2003) 111 Cal.App.4th 436, 438, 443
- In re George T. (2004) 33 Cal.4th 620, 629-634
- United States v. Rahimi (2024) 602 U.S. 680, 684-701
- Golden Door Properties, LLC v. County of San Diego (2020) 50 Cal.App.5th 467, 482, 518, 554-555
- Cruz v. Tapestry, Inc. (2025) 113 Cal.App.5th 943, 953-954
- Bookout v. Nielsen (2007) 155 Cal.App.4th 1131, 1134, 1142
- People v. Alvarez (2025) 114 Cal.App.5th 1115, 1119-1120

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