

SUPREME COURT OF PENNSYLVANIA

Kristin Allyn Weatherholtz v. Dylan Jacob McKelvey

No. 57 MAP 2024 (Pa. 2025) · No. 57 MAP 2024 · Decided December 16, 2025

SUMMARY

Justice Dougherty issued a concurring and dissenting opinion in an appeal concerning the statute of limitations for obtaining a protection order under Pennsylvania's Protection of Victims of Sexual Violence or Intimidation Act. The opinion disagrees with the majority's conclusion that the limitations period begins when an act or circumstance demonstrates a continued risk of harm, rather than when the underlying sexual violence or intimidation occurred. It also argues that the majority's interpretation undermines the limitations period and raises due process and other constitutional concerns.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Dougherty
JURISDICTION	Supreme Court of Pennsylvania
DECIDED	December 16, 2025
DOCKET	57 MAP 2024
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from the Pennsylvania Superior Court's order reversing the Lebanon County Court of Common Pleas order concerning a protective order under the Protection of Victims of Sexual Violence or Intimidation Act.
PRECEDENTIAL VALUE	Published concurring and dissenting opinion; nonbinding.
PARTIES	Kristin Allyn Weatherholtz v. Dylan Jacob McKelvey

TOPICS

- statutory interpretation
- statute of limitations
- due process
- constitutional law
- injunctions

PRACTICE AREAS

- statutory interpretation
- constitutional law
- civil procedure
- remedies

QUESTIONS PRESENTED

1. When does the six-year statute of limitations for an action under the Protection of Victims of Sexual Violence or Intimidation Act begin to run: from the date of the underlying act of sexual violence or intimidation, or from the date of the act or circumstance demonstrating a continued risk of harm?
2. Whether, under the facts of the case, Weatherholtz's cause of action accrued before her June 6, 2022 flea-market encounter because her subjective fear and anxiety predated that encounter.
3. Whether the majority's interpretation of the Act raises constitutional due-process concerns by permitting protective orders based on subjective fear and without proof of a new act by the defendant.

HOLDINGS

1. In Justice Dougherty's view, a plaintiff's cause of action accrues when the plaintiff could first prove both statutory elements, including a continued risk of harm, and the continued-risk element does not require a separate later act or circumstance after the underlying sexual violence or intimidation.
2. In Justice Dougherty's view, allowing accrual to be restarted whenever a plaintiff experiences or invokes increased fear would effectively nullify the six-year statute of limitations recognized in K.N.B.
3. Justice Dougherty stated that the majority's interpretation, combined with K.N.B.'s holding that a plaintiff's fear of encountering the defendant need not be objectively reasonable, raises serious concerns about whether the Act complies with due process.

KEY QUOTATIONS

“Under the second prong of the statute, a plaintiff must prove, by a preponderance of the evidence, that he or she “is at a continued risk of harm from the defendant.”” (at 2)

“The majority’s decision today makes our prior decision in K.N.B. meaningless as a practical matter.” (at 4)

“In my view, the majority’s holding here exacerbates these concerns.” (at 5)

“Thus, this Court has created a situation whereby plaintiffs may successfully obtain an order against a defendant (1) without any proof of sexual violence or intimidation (2) without an intentional act by the defendant (3) without a reasonableness inquiry as to the plaintiff’s fear (4) ad infinitum.” (at 6)

FACTUAL BACKGROUND

Weatherholtz sought a protective order under the Protection of Victims of Sexual Violence or Intimidation Act based on an earlier act of sexual violence or intimidation by McKelvey. She encountered McKelvey at a flea market on June 6, 2022, which increased her existing fear and anxiety. Justice Dougherty emphasized that Weatherholtz testified she was already fearful and anxious before the flea-market encounter, and therefore could have proven a continued risk of harm before that date.

PROCEDURAL HISTORY

The Lebanon County Court of Common Pleas entered an order dated January 17, 2023. The Pennsylvania Superior Court reversed that order on October 25, 2023. The Supreme Court of Pennsylvania granted review on the statute-of-limitations issue. Justice Dougherty concurred and dissented in part from the majority's decision,

disagreeing with the conclusion that the cause of action accrued when the appellant encountered the appellee at a flea market on June 6, 2022.

DISPOSITION

other

CASES CITED

- K.N.B. v. M.D., 259 A.3d 341 (Pa. 2021)
- Weatherholtz v. McKelvey, 323 A.3d 585, 586 (Pa. 2024) (per curiam)
- Weatherholtz v. McKelvey, 305 A.3d 103, 109 (Pa. Super. 2023)
- Rice v. Diocese of Altoona-Johnstown, 255 A.3d 237, 251 (Pa. 2021)

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