

Successful Forfeiture Motion

While there are many ways to establish forfeiture by wrongdoing, here are some key points.

After the incident, some type of protective order is put into place.

The defendant makes contact with the victim after the order is put in place.

In almost every circumstance, the victim changes their attitude towards prosecution. They either come to the police or the prosecutor and request to drop charges, then refuse to testify, or disappear.

You will need a written motion that details the US Supreme Court case law and your jurisdiction's law. The motion should set out the basic facts of the charged offense and the implementation of the protective order. You should then have a separate paragraph detailing each post protective order contact by the defendant. Use quotes from any contact, even if those quotes do not appear to be "threats." Remember, forfeiture does not require the defendant threaten the victim. It only requires them to take steps making the victim unavailable.

You will also need an expert witness to discuss how the dynamics of domestic violence and how the contact by the defendant, even if it was non-threatening, constitutes power and control.

This is the basic formula that has worked across the country. Again, it's not the only way. It's just the most common.