

Family Law – Interpersonal Violence Cases

Florida Supreme Court

No new cases reported.

First District Court of Appeal

No new cases reported.

Second District Court of Appeal

Smith v. Wiker, ___ So.3d ____, 2016 WL 3003257 (Fla. 2d DCA 2016) **STALKING INJUNCTION REVERSED IN PART** A neighbor received a stalking injunction against the other neighbor that included a provision that provided: “The Respondent may travel on his driveway to enter and leave his property but may not linger on his driveway. The Respondent is permitted to continue to live in his home but shall have no contact w/the Petitioner.” The injunction also required the respondent to remove the cameras bordering the neighbor's property within ten days and allowed the respondent to be on his driveway for that ten-day period in order to comply with the injunction. The appellate court affirmed the injunction, but reversed the portion of the order that required the respondent to stay off of his driveway. The court ruled that this provision was overbroad because it included both behavior that could constitute stalking, and legal behavior that should have been permitted. May 25, 2016.

http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2016/May/May%2025,%202016/2D14-3341.pdf

Third District Court of Appeal

No new cases reported.

Fourth District Court of Appeal

Richards v. Crowder, ___ So.3d ____, 2016 WL 2654609 (Fla. 4th DCA 2016) **DENIAL OF MOTION FOR RELIEF REVERSED** A former girlfriend received an injunction for protection against stalking against a former boyfriend. The former boyfriend then hired an attorney and filed a motion for relief from the judgment, alleging that he had low-to-average intelligence and that his verbal and comprehension deficits left him unable to understand the temporary injunction imposed before the final injunction or the notice of evidentiary hearing that he received. The trial court denied the motion, and the boyfriend appealed. The appellate court reversed, stating that the trial court abused its discretion by not allowing the boyfriend to have a hearing on his motion. The court also noted that “Florida courts have recognized that illness or psychological conditions, as well as difficulties with reading and comprehending, can form the basis of a finding of excusable neglect warranting relief from judgment.” May 10, 2016.

<http://www.4dca.org/opinions/May%202016/05-10-16/4D15-4034.op.pdf>

David v. Schack, ___ So.3d ____, 2016 WL 3011787, (Fla. 4th DCA 2016) **STALKING INJUNCTION REVERSED** Petitioner was awarded an injunction against stalking the respondent appealed. At a very brief hearing in which both parties appeared pro se, the

respondent was not allowed an opportunity to present his case. The appellate court reversed because there was not competent and substantial evidence to support the stalking injunction since the petitioner did not show that respondent's behavior caused substantial emotional distress, and only described one incident rather than the requisite two. The court also noted that even if the evidence presented was sufficient, they would have still reversed because the trial court did not give the appellant a full hearing or an opportunity to present his case to satisfy due process. May 25, 2016. <http://www.4dca.org/opinions/May%202016/05-25-16/4D15-1973.op.pdf>

Fye v. Bennett, ___ So.3d ____, 2016 WL 3010493 (Fla. 4th DCA 2016) **DENIAL OF STALKING INJUNCTION REVERSED** The petitioner's petition was denied without a hearing because the trial court ruled that she failed to allege specific facts and circumstances to establish that she was a victim of stalking, and she appealed. Her petition alleged that her relationship with her former husband deteriorated, and that she had to fire him from her company. He then began to make threatening phone calls and harassed her and her employees at various job sites. In November, 2015, the respondent entered a plea of guilty to two counts of making threatening phone calls and was sentenced to six months of probation. As a condition of his probation, the respondent agreed to cooperate with the entry of a permanent injunction against stalking. Due to the respondent's plea agreement and the petitioner's allegations, the appellate court concluded that the petitioner's petition was facially sufficient, and remanded the case for an evidentiary hearing. May 25, 2016. <http://www.4dca.org/opinions/May%202016/05-25-16/4D16-44.op.pdf>

Fifth District Court of Appeal

No new cases reported.