

## Domestic Violence Case Law

July

### ***Florida Supreme Court***

No new cases reported.

### ***First District Court of Appeal***

No new cases reported.

### ***Second District Court of Appeal***

No new cases reported.

### ***Third District Court of Appeal***

No new cases reported.

### ***Fourth District Court of Appeal***

No new cases reported.

### ***Fifth District Court of Appeal***

Bennett v. Abdo, \_\_\_ So. 3d \_\_\_\_, 2015 WL 4002373 (Fla. 5th DCA 2015). [DENIAL OF MOTION FOR MODIFICATION REVERSED](#). An inmate motioned for a modification of an injunction for protection against domestic violence, but the trial court summarily denied the motion without a hearing or explanation. The appellate court held that the trial court's action was improper since the motion was legally sufficient and the inmate had a right to be heard. July 02, 2015. <http://www.5dca.org/Opinions/Opin2015/062915/5D14-3565.op.pdf>

## August

### ***Florida Supreme Court***

No new cases reported.

### ***First District Court of Appeal***

Floyd v. Gray, \_\_\_ So. 3d \_\_\_\_, 2015 WL 4773922 (Fla. 1st DCA 2015). [DATING VIOLENCE INJUNCTION UPHELD](#). The mother filed a petition for an injunction against dating violence on behalf of her daughter, who was the victim of threatened and actual violence by defendant. The court entered a two-year protective injunction, prohibiting defendant from having any contact with or committing any violence against daughter, who was his girlfriend for a short period. Defendant appealed, claiming that he did not have a dating relationship with the girl. The appellate court found that the victim's testimony demonstrated a dating relationship, even though the victim was 14 years old and the relationship between the teens was different from an adult relationship. The court upheld the injunction. August 14, 2015.

[https://edca.1dca.org/DCADocs/2014/4475/144475\\_DC05\\_08142015\\_122625\\_i.pdf](https://edca.1dca.org/DCADocs/2014/4475/144475_DC05_08142015_122625_i.pdf)

### ***Second District Court of Appeal***

No new cases reported.

### ***Third District Court of Appeal***

No new cases reported.

### ***Fourth District Court of Appeal***

No new cases reported.

### ***Fifth District Court of Appeal***

No new cases reported.

September

***Florida Supreme Court***

No new opinions for this reporting period.

***First District Court of Appeal***

No new opinions for this reporting period.

***Second District Court of Appeal***

No new opinions for this reporting period.

***Third District Court of Appeal***

No new opinions for this reporting period.

***Fourth District Court of Appeal***

No new opinions for this reporting period.

***Fifth District Court of Appeal***

No new opinions for this reporting period.

## October

### ***Florida Supreme Court***

No new cases reported.

### ***First District Court of Appeal***

No new cases reported.

### ***Second District Court of Appeal***

No new cases reported.

### ***Third District Court of Appeal***

Richards v. Gonzalez, \_\_\_ So. 3d \_\_\_, 2015 WL 5973843 (Fla. 3d DCA 2015). **STALKING INJUNCTION REVERSED**. The petitioner was granted a four-year injunction for protection against stalking after a neighbor harassed her on several occasions. The neighbor appealed. Due to the substantial discrepancies between the testimony and the allegations in the petition, as well as the general lack of evidence, the appellate court reversed the injunction. The court also noted that “(c)ourts apply a reasonable person standard, not a subjective standard, to determine whether an incident causes substantial emotional distress.” October 14, 2015.

<http://www.3dca.flcourts.org/Opinions/3D14-3046.pdf>

De Leon v. Collazo, \_\_\_ So. 3d \_\_\_, 2015 WL 5965216 (Fla. 3d DCA 2015). **PERMANENT DV INJUNCTION REVERSED**. The respondent appealed after the trial court permitted the petitioner to testify over objection to substantial acts of domestic violence that were not included in the petition. Since the respondent was not aware that these issues would be brought up and didn't have time to prepare, the appellate court ruled that the admission of this evidence violated the respondent's due process rights. The court vacated the permanent injunction, reinstated the temporary injunction, and remanded the case for the trial court to conduct a new final hearing. October 14, 2015. <http://www.3dca.flcourts.org/Opinions/3D14-0443.pdf>

### ***Fourth District Court of Appeal***

No new cases reported.

### ***Fifth District Court of Appeal***

Lippens v. Powers, \_\_\_ So. 3d \_\_\_, 2015 WL 6554462 (Fla. 5th DCA 2015). **STALKING INJUNCTION REVERSED**. The respondent appealed from an injunction for protection against stalking which prohibited her from seeing her daughter. The petitioner and respondent were a same-sex couple married in Vermont, and the petitioner became pregnant through alternative methods. The couple raised the daughter together until they separated. The respondent visited the child until the petitioner began prohibiting visitation. Respondent then tried to text and contact the child asking for visitation. Since none of the messages were threatening and served a legitimate purpose of arranging visitation, and since they did not cause emotional distress, the

court reversed and vacated the injunction. October 30, 2015.

<http://www.5dca.org/Opinions/Opin2015/102615/5D14-4362.op.pdf>

## November

### ***Florida Supreme Court***

In re: Amendments to the Florida Supreme Court Approved Family Law Forms, \_\_\_ So.3d \_\_\_\_, 2015 WL 7295134 (Fla. 2015). **FORMS AMENDED**. The Court previously amended the family law forms to reflect the implementation of e-service and e-filing. After considering the comments and input from the advisory workgroup, the Court further amended the forms by adding the following language to the instructions sections of the forms:

“If you elect to participate in electronic service, which means serving or receiving pleadings by electronic mail (e-mail), or through the Florida Courts E–Filing Portal, you must review Florida Rule of Judicial Administration 2.516. You may find this rule at [www.flcourts.org](http://www.flcourts.org) through the link to the Rules of Judicial Administration provided under either Family Law Forms: Getting Started, or Rules of Court in the A–Z Topical Index.”

The amended forms are available for immediate use. Nov. 19, 2015.

<http://www.floridasupremecourt.org/decisions/2015/sc15-44b.pdf>

### ***First District Court of Appeal***

Mantell v. Rocke, \_\_\_ So. 3d \_\_\_\_, 2015 WL 7444217 (Fla. 1st DCA 2015). **DOMESTIC VIOLENCE INJUNCTION REVERSED**. The respondent appealed after the appellate court entered a final judgment of injunction for protection against domestic violence against him. Since the petitioner did not introduce any evidence or testimony by the petitioner, the appellate court reversed. Nov. 24, 2015.

[https://edca.1dca.org/DCADocs/2015/1403/151403\\_DC13\\_11242015\\_105034\\_i.pdf](https://edca.1dca.org/DCADocs/2015/1403/151403_DC13_11242015_105034_i.pdf)

### ***Second District Court of Appeal***

No new cases reported.

### ***Third District Court of Appeal***

No new cases reported.

### ***Fourth District Court of Appeal***

Neptune v. Lanoue, \_\_\_ So. 3d \_\_\_\_, 2015 WL 6735348 (Fla. 4th DCA 2015). **STALKING INJUNCTION REVERSED IN PART**. The respondent claimed that the petitioner, a police officer, cut him off in traffic, so he followed the police officer into the neighborhood where they both lived and complained to the officer about his driving. The officer then gave the respondent a ticket for driving without a seatbelt, which the respondent denied. The respondent then sent several letters to the officer's boss, other public officials, and to the officer's home address, complaining about his mistreatment, and also posted the officer's picture on the internet with a complaint. The officer petitioned for an injunction against stalking, which was issued and prohibited the respondent from coming within 500 feet of the officer's residence, from posting anything on the internet regarding the officer, and from defacing or destroying the officer's personal property. While the appellate court upheld the injunction, it also stated that the

injunction was overly broad since the first amendment protects the respondent's right to criticize public officials, and struck the provision which interfered with the respondent's freedom of speech. November 4, 2015.

<http://www.4dca.org/opinions/Nov.%202015/11-4-15/4D14-3133%20op.pdf>

***Fifth District Court of Appeal***

No new cases reported.

## December

### ***Florida Supreme Court***

No new cases reported.

### ***First District Court of Appeal***

Crapps v. State, \_\_\_ So. 3d \_\_\_\_, 2015 WL 8114247 (Fla. 1st DCA 2015). **STALKING CONVICTION REVERSED IN PART**. The appellant was convicted of violating an injunction for protection against stalking (count I) and unauthorized computer use (count II) after he logged into his ex-girlfriend's Instagram account and posted nude photographs of her without her permission. The appellant only challenged his conviction on count II, and claimed that his actions did not violate s. 815.06(1)(a), F.S. That statute was enacted in 1978, before the Internet and social media accounts such as Instagram existed, and the plain language of the statutory definitions of "computer," "computer system," and "computer network" refer to tangible devices, not the data and other information located on the device. Therefore, to prove a violation of s. 815.06(1)(a), the State must establish that the defendant accessed one of the listed tangible devices without authorization, not that the defendant accessed a program or information stored on the device without authorization. In this case, the charge against the appellant was based only on the unauthorized access of his ex-girlfriend's Instagram account, not on a specific computer or server. Therefore, the court affirmed the trial court's decision of count I, and reversed count II. December 8, 2015.

[https://edca.1dca.org/DCADocs/2014/4569/144569\\_DC08\\_12082015\\_090851\\_i.pdf](https://edca.1dca.org/DCADocs/2014/4569/144569_DC08_12082015_090851_i.pdf)

### ***Second District Court of Appeal***

Roach v. Brower, \_\_\_ So. 3d \_\_\_\_, 2015 WL 8291622 (Fla. 2d DCA 2015). **STALKING INJUNCTION REVERSED**. The respondent appealed an injunction for protection against stalking that prohibited her from contacting the petitioner. Since there was no evidence that the conduct in question caused the petitioner substantial emotional distress under s. 784.048(1)(a), F.S., the court reversed and remanded the case. Dec. 9, 2015.

[http://www.2dca.org/opinions/Opinion\\_Pages/Opinion\\_Pages\\_2015/December/December%2009,%202015/2D15-493.pdf](http://www.2dca.org/opinions/Opinion_Pages/Opinion_Pages_2015/December/December%2009,%202015/2D15-493.pdf)

### ***Third District Court of Appeal***

No new cases reported.

### ***Fourth District Court of Appeal***

Thoma v. O'Neal, \_\_\_ So. 3d \_\_\_\_, 2015 WL 8295056 (Fla. 4th DCA 2015). **STALKING INJUNCTION AFFIRMED**. The trial court issued a stalking injunction after the respondent made derogatory comments, followed the petitioner with his car after work, and made a flyer with

negative comments about the petitioner and passed it out in the petitioner's neighborhood. The appellant appealed the stalking injunction entered against him and claimed that the trial court erred in entering the injunction because there was insufficient evidence of a course of conduct to support a finding of stalking, and that the conditions imposed by the trial court as part of the injunction were overly broad and thus unconstitutional as a restriction on the appellant's freedom of speech. The court affirmed the stalking injunction and noted that the flyer may not have been a true threat of violence, but was distributed to harass the victim and sought to invade the victim's privacy; thus the flyer was not speech protected by the First Amendment. December 9, 2015.

<http://www.4dca.org/opinions/Dec.%202015/12-09-15/4D14-3459.op.pdf>

### ***Fifth District Court of Appeal***

Champion v. Zuilkowski, \_\_\_ So. 3d \_\_\_\_, 2015 WL 8483830 (Fla. 5th DCA 2015). **MOTION REVERSED, HEARING ORDERED**. The appellant appealed an order that summarily denied his motion to dissolve a permanent injunction against domestic violence. Because the appellant sufficiently alleged changed circumstances, the court reversed and remanded the case for an evidentiary hearing upon proper service of process on the petitioner. December 11, 2015.

<http://www.5dca.org/Opinions/Opin2015/120715/5D15-676.op.pdf>

Jacquot v. Jacquot, \_\_\_ So. 3d \_\_\_\_, 2015 WL 9491807 (Fla. 5th DCA 2015). **DENIAL OF MOTION TO DISMISS INJUNCTION REVERSED**. The appellant appealed after the trial court denied his motion for relief from an injunction against domestic violence without a hearing. The trial court decided that the motion was moot because the injunction has previously expired; however, the appellate court noted that the expiration of an injunction for protection against domestic violence is one of the recognized exceptions to the dismissal of a moot case and reversed. Injunctions for protections against domestic violence are exempt from the usual rule of mootness because of the collateral legal consequences that may result from the injunction. December 31, 2015.

<http://www.5dca.org/Opinions/Opin2015/122815/5D15-3641.op.pdf>