Interpersonal Violence Injunctions (DV, SV, Dating, Repeat, Stalking) Case Law

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

Austin, v. Echemendia, ___ So. 3d ___, 2016 WL 4382557 (Fla. 4th DCA 2016). DENIAL OF REPEAT VIOLENCE INJUNCTION REVERSED. The petitioner appealed after the circuit court denied her petition for an injunction for protection against repeat violence. At the hearing, the petitioner testified that the respondent strangled her multiple times and left marks around her neck, then threatened to kill her. On a later date, she testified that the respondent again strangled her and left marks, then threw her to the ground. The respondent called the petitioner 28 times on one occasion and about 30-40 times during the month. He also left pictures of her house, texted her, followed her when she was with co-workers, and threatened to slash her tires. She also testified that he blocked her from leaving work with her car, banged on her car doors, and threatened her. The respondent did not appear at the hearing. The court denied the injunction, stating that there was no physical violence, but that the petitioner could re-file under a different form of petition, such as a stalking petition. The appellate court reversed, stating that the petitioner clearly established two incidents of violence as the statute required, when she testified about the two strangulation incidents. The court noted that the trial judge "overlooked the fact that stalking can constitute an act of repeat violence under the statute."
http://www.4dca.org/opinions/Aug%202016/08-17-16/4D15-4607.op.pdf (August 17, 2016)

Bowles v. State, ___ So. 3d ___, 2016 WL 4381840 (Fla. 4th DCA 2016). EVIDENCE WAS INADMISSIBLE IN CRIMINAL STALKING CASE. In 2013, the defendant was ordered not to have any contact with his ex-wife except for issues related to the child. He was also required to have supervised timesharing, and could not possess a firearm. The order was later amended to stop the timesharing, but allowed him phone contact with the child. Another order stopped all contact between the defendant and his child and extended the order prohibiting him from possessing a firearm. Despite these orders, the defendant sent disturbing text messages, photos, and e-mails to his ex-wife and her fiancé and made threats to kill them and the fiancé's family. The ex-wife obtained a domestic violence injunction against the defendant, yet he continued his threatening behavior. He was then charged and convicted for stalking and aggravated stalking in violation of the court orders and domestic violence injunction, and appealed. He argued that the trial court

erred by admitting evidence from the family court orders which required him to complete a psychological evaluation and prohibiting him from having firearms because the evidence was prejudicial. He claimed that the objectionable portions of the order only outlined the reason that the court temporarily suspended his timesharing, but the reason for the suspension was not relevant to any material fact in dispute in the aggravated stalking case. The appellate court agreed and reversed and remanded the case for a new trial, stating that "because the references in the court order to the requirements of a psychological evaluation and anger management course did not tend to prove or disprove a material fact, such evidence was irrelevant, and therefore, inadmissible."
http://www.4dca.org/opinions/Aug%202016/08-17-16/4D15-1929.op.pdf (August 17, 2016)

Mitchell v. Mitchell, ___ So. 3d ___, 2016 WL 4445936 (Fla. 4th DCA 2016). DOMESTIC VIOLENCE INJUNCTION REVERSED. The trial court issued a final judgment of injunction for protection against domestic violence based upon several text messages that the petitioner provided and the court admitted into evidence. The respondent appealed, stating that the text messages were incomplete and were missing portions of the conversation. He also claimed that the trial court applied the incorrect standard and that the evidence did not support the injunction. The appellate court agreed and reversed, stating that the petitioner was not in imminent harm as required by the statute.
http://www.4dca.org/opinions/Aug%202016/08-24-16/4D15-864.op.pdf (August 24, 2016)

Klemple v. Gagliano, ___ So. 3d ___, 2016 WL 4539610 (Fla. 4th DCA 2016). STALKING INJUNCTION REVERSED. Neighbors filed petitions for injunctions for protection against stalking against each other, and the court issued both injunctions. One neighbor appealed, stating that the evidence was insufficient to establish that the appealing neighbor followed or harassed the other neighbor. The appellate court reversed, noting that there was not competent, substantial evidence to support the injunction. The behavior described during the hearing did not constitute following or harassment as described in the statute. Further, the evidence that was admitted was based upon hearsay and speculation.
http://www.4dca.org/opinions/Aug%202016/08-31-16/4D15-4761.op.pdf (August 31, 2016)

Fifth District Court of Appeal

No new opinions for this reporting period.