

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

No new opinions for this reporting period.

Fifth District Court of Appeal

Garcia v. R. A. G. by and through Hurd, ___ So. 3d ___, 2017 WL 4856777 (Fla. 5th DCA 2017). **COURT SHOULD HAVE ALLOWED INCARCERATED INMATE TO APPEAR BY PHONE AT HEARING.** The appellant filed a motion to dissolve an injunction for protection against domestic violence while he was still an inmate at a correctional facility, and also filed another motion requesting a telephonic hearing. The judge entered an order that required both parties to be present for the hearing regarding the injunction, and when appellant did not attend due to his incarceration, the court denied the motion. The appellate court noted that if the appellant had timely appealed that ruling, it probably would have concluded that the failure to grant the appellant's request for a telephone hearing was error. However, the appeal in this case involved the summary denial of the appellant's rule 1.540(b) motion, in which he alleged that he did not receive the challenged order until forty-eight days after it was entered and requested the order be set aside so he could obtain a new order that he could timely appeal. The trial court denied the motion without a hearing. The appellate court held that because the 1.540(b) motion was facially sufficient, the trial court should have conducted an evidentiary hearing to determine whether the appellant was entitled to relief. The appellate court noted that the dispositive issue was whether or not the appellant failed to receive the challenged order in a timely manner through no fault of his own. The case was remanded, and the appellate court stated that at the hearing, the trial court shall permit the appellant's attendance by telephone if he is still incarcerated.

<http://www.5dca.org/Opinions/Opin2017/102317/5D17-718.op.pdf> (October 27, 2017)