

OSCA/OCI'S CASE LAW UPDATE
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No new opinions for this reporting period.

Fourth District Court of Appeal

D.F. v. State, __ So. 3d __, 2018 WL 3318524 (Fla. 2d DCA 2018). **INVOLUNTARY COMMITMENT ORDER AFFIRMED**. D.F. appealed his involuntary commitment under the Baker Act. A magistrate held an evidentiary hearing on the involuntary inpatient treatment petition. The magistrate recommended involuntary inpatient placement in a closed facility. D.F. filed exceptions to the magistrate's report. The trial court conducted a hearing and approved by order the magistrate's report and recommendation with a three-month time limit. D.F. argued that the State failed to meet its burden that he was likely to suffer from neglect that would pose a real and present danger of substantial harm to his well-being under s. 394.467(1)(a)(2)(a), F.S., and that all available less restrictive treatment alternatives would be inappropriate under s. 394.467(1)(b), F.S. The Second District Court of Appeal found that the State must prove by clear and convincing evidence that the statutory criteria authorizing involuntary commitment have been met. In the instant case, D.F. conceded that he cannot take care of himself without help. His psychiatrist testified to the specific harm to D.F. if discharged. Without treatment, D.F. would not take his medication or eat. D.F. was mildly malnourished and disheveled when he first arrived at the receiving center. The record also reflected that D.F.'s two prior placements in the past three months in a group home were ineffective. The current malnutrition followed D.F.'s last discharge from a group home. Although D.F. was mildly, not grossly, malnourished, the Second District concluded that the State presented evidence of specific occasions where D.F.'s failure to take medication and take care of himself resulted in substantial harm to his well-being. As to the s. 394.467(1)(b), F.S. claim, the Second District found that D.F.'s previous group home placements were ineffective. The psychiatrist testified, without rebuttal, that D.F. did not have family or friends to care for him. D.F.'s testimony that he could stay with a friend or roommate fell short of suggesting that either was willing or able to help him. As a result, the Second District found that the magistrate's finding were supported by competent, substantial evidence and the trial court did not abuse its discretion in accepting the magistrate's recommendation. Accordingly, the Second District affirmed the trial court's commitment order.

https://edca.2dca.org/DCADocs/2017/2315/172315_65_07062018_08263705_i.pdf (July 6, 2018)

Fifth District Court of Appeal

No new opinions for this reporting period.

Drug Court/Mental Health/Veterans Court 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

No new opinions for this reporting period.

Delinquency Case Law

Florida Supreme Court

No new opinions for this reporting period.

First District Court of Appeal

C.T.T. v. State, ___ So. 3d ___, 2018 WL 3351298 (Fla. 1st DCA 2018). [LEAVING THE SCENE OF A COLLISION WHERE THE PROPERTY STRUCK WAS NOT DAMAGED IS NOT A CRIME](#). When C.T.T. fled from law enforcement in a car, he eventually hit a tree and fled the scene of the collision. Because no evidence was admitted to indicate that there was any damage to the tree, the appellate court reversed the finding of guilt for leaving the scene of an accident involving damage to unattended property, and remanded for correction of the order revoking probation. https://edca.1dca.org/DCADocs/2017/5164/175164_1286_07092018_01415684_i.pdf (July 9, 2018)

S.G. v. State, ___ So. 3d ___, 2018 WL 3551930 (Fla. 1st DCA 2018). [JUVENILE’S DECISION TO NOT FOLLOW THE TERMS OF HER CHILDREN’S HOME SOCIETY PLAN IS INSUFFICIENT FOR A CHARGE OF RESISTING AN OFFICER WITHOUT VIOLENCE](#). S.G. was under the care of the Children’s Home Society (CHS) pursuant to a detention order. At one point, S.G. was informed that she would be sent to a particular CHS shelter for the night. S.G. did not want to go to that shelter and told CHS staff she would not go, so CHS called law enforcement to intervene. The officer told S.G. she could either go to the shelter CHS chose, or she would have to go to the juvenile assessment center (JAC). S.G. chose to go to the JAC. The State then charged S.G. with resisting an officer without violence. After the state presented its case at hearing, S.G. requested a judgment of dismissal due to insufficient evidence. Her motion was denied and she was found guilty. On appeal, the appellate court noted that the officer properly took S.G. into custody for failing to abide by CHS’s shelter choice and thereby the conditions of her detention. However, the State presented no evidence that S.G. resisted the officer’s efforts in any way. In fact, after S.G. chose to go to the JAC (as the officer offered) she did not by her words or conduct resist, obstruct, or oppose the officer’s actions in carrying out his legal duty. While S.G.’s refusal to follow CHS’s plan caused her to violate the terms of her detention, that alone cannot support a charge of resisting an officer without violence. The motion for judgment of dismissal should have been granted. Reversed and remanded for dismissal. https://edca.1dca.org/DCADocs/2017/4170/174170_1287_07252018_09042161_i.pdf (July 25, 2018)

Second District Court of Appeal

D.F. v. State, ___ So. 3d ___, 2018 WL 3318524 (Fla. 2d DCA 2018). [INVOLUNTARY COMMITMENT ORDER AFFIRMED](#). The State presented clear and convincing evidence that D.F. posed a real and present threat of substantial harm to himself. Additionally, substantial, competent evidence supported a finding that less restrictive alternative placements were inappropriate in this case. Therefore, the involuntary commitment order was affirmed. For additional information on the Baker Act aspect of this case, please see the Baker Act Case Law section above.

https://edca.2dca.org/DCADocs/2017/2315/172315_65_07062018_08263705_i.pdf (July 6, 2018)

E.M. v. State, ___ So. 3d ___, 2018 WL 3403461 (Fla. 2d DCA 2018). [BURGLARY OF A DWELLING WITH NO EVIDENCE OF INTENT TO COMMIT A CRIME UPON ENTERING MUST BE REDUCED TO TRESPASS](#). E.M. and several other girls rode in a stolen car, opened the garage of a vacant house with a garage door opener, parked the car in the garage, and remained therein for some time. The State produced no evidence of what E.M. did, may have done, or intended to do while inside the house, so the appellate court held that the burglary charge was not supported by the evidence, and must be reduced to a charge of trespass. E.M. was also subject to a criminal mischief charge which the State had apparently nolle prossed at the conclusion of the hearing, but which was included in the disposition. The appellate court reversed the criminal mischief count. Reversed and remanded for a new disposition hearing.

https://edca.2dca.org/DCADocs/2017/2521/172521_39_07132018_08224833_i.pdf (July 13, 2018)

Third District Court of Appeal

No new opinions for this reporting period.

Fourth District Court of Appeal

D.M.B. v. State, ___ So. 3d ___, 2018 WL 3375391 (Fla. 4th DCA 2018). [INSUFFICIENT EVIDENCE TO SUPPORT A CHARGE OF LOITERING AND PROWELING EVEN UNDER THE PREPONDERANCE OF THE EVIDENCE STANDARD IN VIOLATION OF PROBATION CASES](#). D.M.B. appealed his adjudication of delinquency and commitment to a non-secure residential program based on a violation of probation. At the evidentiary hearing and combined final probation violation hearing, the State showed that police responded to calls of a burglary in progress and several juveniles were seen fleeing the area. Various officers pursued different groups of youth, and a canine officer and his police dog tracked six juveniles, including appellant, to a wooded area along a canal where they were eventually taken into custody. D.M.B. told police he did not know about the burglary but ran from police because he was on probation and thought he was trespassing. After the State rested and again at the end of the hearing, D.M.B. moved for a judgment of dismissal arguing that the State had failed to present a prima facie case of loitering and prowling. The trial court dismissed the substantive offense for falling short of the facts needed to support the charge, but found that the evidence supported a violation of probation by the lower standard of a preponderance of the evidence in violation of probation cases. The appellate court found that the evidence presented was insufficient to establish—even under the preponderance of the evidence standard—that appellant’s actions rose to the level of incipient behavior pointing toward the threat of an immediate future crime. Reversed.

https://www.4dca.org/content/download/316899/2834152/file/170394_1709_07112018_08571863_i.pdf (July 11, 2018)

Fifth District Court of Appeal

No new opinions for this reporting period.

Dependency Case Law

Florida Supreme Court

In Re: Amendments of Rules of Juvenile Procedure-2018 Fast Track Report, __ So. 3d __, 43 Fla.L.Weekly S310, 2018 WL 3613385 (Fla. 2018). [RULES OF JUVENILE PROCEDURE AMENDED BASED ON LAWS PASSED DURING THE 2018 LEGISLATIVE SESSION](#). The Florida Supreme Court amended Juvenile Rules 8.305, 8.340, 8.400, 8.415, 8.420, and 8.425. The amendments are based on legislative changes and took effect immediately upon release of the opinion. The court set a period of sixty days from the date of the opinion to file comments.
<http://www.floridasupremecourt.org/decisions/2018/sc18-1047.pdf> (July 19, 2018)

First District Court of Appeal

No new opinions for this reporting period.

Second 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.

Dissolution of Marriage Case Law

Florida Supreme Court

No new opinions for this reporting period.

First District Court of Appeal

Demming v. Demming, __ So. 3d __, 2018 WL (Fla. 1st DCA 2018). **MODIFICATION OF ORDER DID NOT CREATE A NEW RIGHT TO APPEAL.** Contending with what it termed a “jurisdictional conundrum,” the appellate court dismissed the spouses’ cross-appeals as untimely. The trial court entered two final judgments several months apart resolving dissolution issues. When former wife’s motion for rehearing of the first order was denied, she did not appeal the order, but moved to disqualify the judge and magistrate for not having accepted her arguments on rehearing. She then moved for entry of a final judgment. Following emails and letters between the judge and the spouses, which addressed issues former wife had raised in her motion for rehearing, the judge entered a second order. This time, both spouses appealed. Appellate court noted the second order differed from the first, including correction of technical and mathematical errors; however, it concluded that entry of a “*modified*” second order after time had run to appeal a prior order addressing the same issues, did not create a new right to appeal. [Italics in opinion]. Because the first order was final and appealable, time to appeal began to run once former wife’s motion for rehearing was denied. Appellate court held that once the trial court denied the motion for rehearing, it was without jurisdiction to modify the first order, rendering the second order a “nullity.” The dissenting judge opined that the first order was not final because it left judicial labor remaining.

https://edca.1dca.org/DCADocs/2017/0401/170401_1279_07092018_12560805_i.pdf (July 9, 2018)

Mahoney v. Mahoney, __ So. 3d __, 2018 WL 3351278 (Fla. 1st DCA 2018). **ALIMONY AWARD AND IMPOSITION OF LIFE INSURANCE REQUIREMENT REQUIRE SPECIFIC FINDINGS; CUT-OFF DATE FOR CLASSIFYING ASSETS AND LIABILITIES IS DATE OF FILING.** In an appeal of a final judgment of dissolution, appellate court concluded that the trial court: abused its discretion in awarding former wife attorney’s fees without making the requisite findings; erred in having ordered former husband to obtain life insurance to secure support without having made the specific findings; and miscalculated former wife’s marital share of former husband’s military retirement benefits. Accordingly, it reversed and remanded. Appellate court found no evidence was presented at the final hearing regarding the amount of fees, nor did anything on the face of the final judgment reveal that the trial court had made the requisite factual determinations. As with its prior case of Gotro v. Gotro, 218 So. 3d 494 (Fla. 1st DCA 2017), appellate court noted that while there may be a basis in the record for imposing an insurance requirement, the trial court must state the required findings warranting the requirement. Appellate court agreed with former husband that the trial court relied on an incorrect cut-off date to classify the military retirement plan as a marital asset.

https://edca.1dca.org/DCADocs/2017/2071/172071_1286_07092018_01141051_i.pdf (July 9, 2018)

Second District Court of Appeal

Marzullo v. Marzullo, __ So. 3d __, 2018 WL 3553308 (Fla. 2d DCA 2018). **IF TRIAL COURT HAS RESERVED JURISDICTION, ORDER IS NOT FINAL.** Former husband appealed the trial court's denial of his supplemental counter-petition for modification and retroactive modification of alimony and its granting of former wife's supplemental counter-petition for modification of alimony, retroactive alimony, modification of retirement benefits, retroactive retirement benefits, and alimony arrearages. Appellate court dismissed the appeal awarding former wife a share of former husband's retirement benefits because that portion of the order was nonfinal and nonappealable and the trial court had expressly reserved jurisdiction; it affirmed the remainder of the order. https://edca.2dca.org/DCADocs/2017/3953/173953_65_07252018_09152138_i.pdf (July 25, 2018)

Third District Court of Appeal

Lane v. Lane, __ So. 3d __, 2018 WL 3370827 (Fla. 3d DCA 2018). **TRIAL COURT'S ORDER AUTHORIZING ONE SPOUSE TO FILE APPLICATIONS AT RELIGIOUS SCHOOL THAT HE WOULD PAY FOR, AND ORDERING OTHER SPOUSE TO COOPERATE AFFIRMED.** Former wife appealed a trial court order: 1) authorizing former husband to file applications for the spouses' children at a religious school; and 2) denying her motion for contempt and to compel him to comply with the shared parental responsibility ordered in their final judgment of dissolution. The order on appeal followed a disagreement between the spouses as to where their children should attend middle school after having attended public schools in former wife's school district. Former wife wanted them to continue in public schools; former husband preferred that they attend a religious school and was willing to pay for it. The trial court's finding that it would be in each child's best interest to attend the religious school was not disturbed. Appellate court concluded that the trial court's finding that former husband would be able to pay was based on competent, substantial evidence. The trial court did not abuse its discretion in ordering former wife to "cooperate and fully support" the children's applications to attend the religious school because that directive was not an attempt to enforce former husband's religious views over hers when the children were with her. Noting that former wife failed to cite any case law in support of her argument that former husband violated the shared parental responsibility component of the final judgment by taking the children to be tested at the religious school without her knowledge, appellate court reiterated that nothing in Florida law "*requires*" a trial court to hold someone in contempt. [Italics in opinion]. Affirmed. <http://www.3dca.flcourts.org/Opinions/3D17-2538.pdf> (July 11, 2018)

Franco v. Thomas, __ So. 3d __, 2018 WL 3553327 (Fla. 3d DCA 2018). **TRIAL COURT'S VACATION OF FINAL JUDGMENT REVERSED; SPOUSE SHOULD HAVE EITHER REQUESTED REHEARING OR APPEALED FINAL JUDGMENT TO CHALLENGED ALLEGED ERROR.** Former husband filed an unlawful detainer action to evict former wife and their children from the marital home following a final judgment which incorporated an oral settlement agreement between the spouses that each would retain his or her non-marital assets. Former husband had purchased the marital home prior to the marriage and was the sole owner. Although she neither moved for rehearing nor appealed the final judgment, former wife moved to vacate it as the result of mistake, surprise, coercion, and duress. Former husband responded with a motion for summary judgment. At the

hearing, former wife argued that the final judgment was not equitable because the trial court failed to consider where the minor children would live post-dissolution. The trial court agreed with former wife that the final judgment was not fair to the minor children and denied former husband's motion for summary judgment. Concluding that former wife should have either requested rehearing or appealed the final judgment; appellate court held that neither Florida Rule of Civil Procedure 1.540, nor its equivalent, Florida Family Law Rule of Procedure 12.540, was an "appropriate vehicle to challenge a judgment based on alleged legal error." Reversed. <http://www.3dca.flcourts.org/Opinions/3D17-2546.pdf> (July 25, 2018)

Fourth District Court of Appeal

Williams v. Williams, __ So. 3d __, 2018 WL 3387447 (Fla. 4th DCA 2018). **CONTEMPT CAN BE USED TO ENFORCE NON-PERFORMANCE IN EQUITABLE DISTRIBUTION.** Former husband appealed denial of his motion for enforcement and sanctions against former wife for her failure to comply with a provision in their marital settlement agreement, requiring her to make "*all reasonable efforts*" to refinance the marital home by a certain date. [Italics in opinion]. Appellate court reiterated that equitable distribution of marital property is generally considered a debt owed to a former spouse with any payments enforced as claims between a debtor and creditor; however, when equitable distribution requires performance of a specific act rather than payment of money, a trial court can enforce the provision through contempt. Appellate court concluded that the trial court correctly found that former wife had breached the provision in the marital settlement agreement, but erred in failing to determine whether her failure to comply was "willful and deliberate and not caused by an inability to comply." Appellate court reversed and remanded for further proceedings consistent with its opinion. https://www.4dca.org/content/download/316912/2834269/file/172834_1709_07112018_09273723_i.pdf (July 11, 2018)

Elkins v. Elkins, __ So. 3d __, 2018 WL 3472038 (Fla. 4th DCA 2018). **TRIAL COURT DEPARTED FROM ESSENTIAL REQUIREMENTS OF LAW; CERTIORARI GRANTED.** Former husband sought certiorari review of an order requiring him to disclose extensive personal financial information to former wife in a post-dissolution proceeding. Reiterating that certiorari relief is warranted where a trial court has departed from the essential requirements of law, resulting in material harm that cannot be remedied on appeal, appellate court granted his petition and quashed the order. Here, former husband demonstrated that the trial court's order departed from essential requirements of law because the requested financial discovery had not yet been determined to be relevant to any issue in the litigation. Petition granted. https://www.4dca.org/content/download/345499/3053433/file/180625_1704_07182018_09224717_i.pdf (July 18, 2018)

Lopez v. Hernandez, __ So. 3d __, 2018 WL 3569395 (Fla. 4th DCA 2018). **SPECIAL EQUITY WAS ABOLISHED IN 2008; UNEQUAL DISTRIBUTION MUST BE JUSTIFIED.** Former husband appealed the trial court's valuation of the marital home, the buy-out provision relating to the marital home, and the award of "special equity" in the home to former wife in the final judgment dissolving their marriage. Appellate court affirmed as to the first two issues, but reversed on the third. First, the appellate court cited its ruling in Jordan v. Jordan, 127 So. 3d 794 (Fla. 4th DCA 2013), that a

trial court is not required to make findings of fact regarding valuations of properties. Second, the appellate court reiterated that in the absence of a transcript, appellate review is limited to errors on the face of the judgment; here, there were none. The appellate court concluded that the trial court did not abuse its discretion in allowing former wife 55 months to buy out former husband's interest in the marital home. Third, because special equity was abolished by the legislature in 2008, that award was in error. Distribution should be equal; unequal distribution must be justified pursuant to s. 61.075(1), F.S., (2017).

https://www.4dca.org/content/download/384870/3298521/file/173495_1708_07252018_10031250_i.pdf (July 25, 2018)

Vaughn v. Vaughn, __ So. 3d __, 2018 WL 3569971 (Fla. 4th DCA 2018). **REVERSED DUE TO LACK OF FINDINGS IN SUPPORT OF EQUITABLE DISTRIBUTION SCHEME.** Former husband appealed a final judgment of dissolution and equitable distribution of marital assets. Appellate court reversed because the trial court failed to make findings of fact in support of its scheme of equitable distribution as required by s. 61.075(3), F.S., (2017). Instead of specific, written findings, the final judgment included only a "general conclusory statement" that some items were determined to be marital, and others non-marital. This was error.

https://www.4dca.org/content/download/384867/3298494/file/172895_1709_07252018_09485461_i.pdf (July 25, 2018)

Fifth District Court of Appeal

Lamancusa v. DOR o/b/o Lamancusa, __ So. 3d __, WL 3579179 (Fla. 5th DCA 2018). **SUBJECT MATTER JURISDICTION REFERS TO COURT'S AUTHORITY TO HEAR AND DECIDE A CASE.** The final judgment dissolving the spouses' marriage in New York in 2008 obligated former husband to pay child support until the youngest child turned 21. Former husband registered the judgment in Florida, and in 2013, moved for downward modification based on a decrease in his income. Although former husband did not request modification of the duration, the trial court reduced the obligation and modified its duration so that child support would terminate when the child reached 18. Neither spouse appealed. In 2017, after the child turned 18 and graduated from high school, former husband petitioned to terminate his obligation. The trial court concluded that the 2013 order was void to the extent it purported to modify the duration of the obligation, based on lack of subject matter jurisdiction. The appellate court disagreed. Citing its case, *In re Adoption of D.P.P.*, 158 So. 3d 633 (Fla. 5th DCA 2014), the appellate court held that subject matter jurisdiction refers to a court's authority to hear and decide a case. A jurisdictional challenge is appropriate when the court lacks authority to hear a class of cases, rather than when it lacks authority to grant the relief requested in a particular case. Here, New York lost jurisdiction when neither parent nor the child continued to live there; subject matter jurisdiction was granted to Florida courts pursuant to s. 88.6111(1)(a), F.S., (2013). Appellate court concluded that although the 2013 trial court might have erred when it modified the duration of the obligation, it did have subject matter jurisdiction; therefore, the 2017 trial court erred in vacating the 2013 order as to modification of the duration. Reversed and remanded; one judge concurred with an opinion.

<http://www.5dca.org/Opinions/Opin2018/062518/5D17-1997.op.pdf> (June 29, 2018)

Holloway v. Holloway, __ So. 3d __, 2018 WL 3397644 (Fla. 5th DCA 2018). **IT IS ERROR TO AWARD FEES TO ONE SPOUSE IF BOTH ARE IN SIMILAR FINANCIAL POSITIONS.** Former husband appealed an order modifying his alimony obligation, requiring him to pay alimony arrears, and awarding former wife a portion of her attorney's fees. The appellate court found no error in the trial court's decision to modify alimony and award alimony arrears, but that its decision regarding fees was not supported by the record. Because the evidence established that both spouses were in similar financial positions and equally able to pay their own attorney's fees, it was error for the trial court to order former husband to pay a portion of former wife's fees. Accordingly, appellate court reversed the fee award and affirmed the remainder of the order.

<http://www.5dca.org/Opinions/Opin2018/070918/5D17-1709.op.pdf> (July 13, 2018)

McNeil v. Jenkins-McNeil, __ So. 3d __, 2018 WL 3595270 (Fla. 5th DCA 2018). **SIX-MONTH RESIDENCY REQUIREMENT IS JURISDICTIONAL; MUST BE ALLEGED AND PROVED.** Failure to establish the six-month residency requirement resulted in reversal of the final judgment of dissolution. The residency requirement is jurisdictional and must be alleged and proved. Former wife alleged in her counter-petition that former husband had been a Florida resident for at least six months prior to filing his petition for dissolution, but did not separately allege that she was a Florida resident; thus, she had the burden of proving former husband's residency at trial. Although residency may be corroborated by a valid driver's license, a voter's registration card, an ID card issued under s. 322.051, F.S., or the testimony or affidavit of a third party, it cannot be established by the uncorroborated testimony of one spouse. Former husband did not attend the trial and former wife failed to establish his residency with any corroborating evidence under s. 61.052(2), F.S.; therefore, the trial court lacked jurisdiction to enter the final judgment. Appellate court reversed the judgment as void and remanded for further proceedings.

<http://www.5dca.org/Opinions/Opin2018/072318/5D17-3283.op.pdf> (July 27, 2018)

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

Tash v. Rogers o/b/o/ Minor Child E.R., __ So. 3d __, 2018 WL 3351302 (Fla 1st DCA 2018). **INJUNCTION AGAINST REPEAT VIOLENCE REVERSED**. The trial court issued a final judgment granting a permanent injunction for protection against repeat violence for a father and daughter, and the respondent appealed. While one act of violence did occur, the appellate court reversed because a second act of violence, as required by statute, was not proven. Appellant's behavior did not cause a fear of imminent violence because there was no evidence offered to show that the respondent could actually carry out the threat.

https://edca.1dca.org/DCADocs/2017/2861/172861_1287_07092018_01292740_i.pdf (July 9, 2018)

Paulson v. Rankart, __ So. 3d __, 2018 WL 3370794 (Fla. 1st DCA 2018). **STALKING INJUNCTION REVERSED**. The respondent appealed a stalking injunction, claiming that the alleged harassment happened more than six months before the petition was filed, and that the evidence was legally insufficient to support the injunction. The appellate court noted that the statute did not require the incidents to occur within the previous six months, however, the court reversed because it found that the evidence that the neighbor was watching the petitioner sunbathe and looking at her utility meters was not enough to cause substantial emotional distress, and that there was no evidence that the respondent willfully and maliciously engaged in a course of conduct directed at the petitioner.

https://edca.1dca.org/DCADocs/2017/1751/171751_1287_07112018_08551910_i.pdf (July 11, 2018)

Mitchell v. Brogden, __ So. 3d __, 2018 WL 3421777 (Fla. 1st DCA 2018). **STALKING INJUNCTION REVERSED**. Even though the stalking injunction had expired, the court reviewed the case due to the collateral consequences of an injunction and reversed, finding that the behavior in question was not sufficient to cause substantial emotional distress. An interesting discussion of when a case should be heard en banc by the appellate court is offered in a dissent.

https://edca.1dca.org/DCADocs/2016/5849/165849_1287_07162018_08150923_i.pdf (July 16, 2018)

Second District Court of Appeal

Porvaznik o/b/o E.M.P. v. Porvaznik o/b/o R.M.P., __ So. 3d __, 2018 WL 3320856 (Fla. 2d DCA 2018). **ORDER DISSOLVING INJUNCTION AGAINST SEXUAL VIOLENCE REVERSED**. On June 14, 2017, Mr. Porvaznik filed a motion to dissolve the permanent injunction for protection against sexual violence. A notice of hearing was served on July 14, 2017, indicating that the hearing would be on August 15, 2017. An amended notice of hearing was served on August 10, 2017, which

stated that the hearing on the motion had been rescheduled for August 22, 2017. However, on August 15, Mr. Porvaznik appeared with counsel prepared to present evidence in support of his motion to dissolve the injunction. Neither Ms. Porvaznik nor her counsel were present. The matter was also not on the court's docket for that day, and the court expressed concern that Ms. Porvaznik did not have adequate notice of the hearing. Even so, the court proceeded with the evidentiary hearing and dissolved the injunction. The appellate court reversed and stated that the trial court violated Ms. Porvaznik's due process rights because it conducted the evidentiary hearing without giving her proper notice and an opportunity to be heard.

https://edca.2dca.org/DCADocs/2017/3425/173425_39_07062018_08293286_i.pdf (July 6, 2018)

Third District Court of Appeal

Gonzalez v. Baez, __ So. 3d __, 2018 WL 3370931 (Fla. 3d DCA 2018). DOMESTIC VIOLENCE INJUNCTION AFFIRMED. The judge awarded a permanent domestic violence injunction and the respondent appealed, claiming that the petitioner testified about incidents that were not included in the petition, and that the testimony wasn't believable. The appellate court affirmed, noting that the trial court did not abuse its discretion and found the petitioner's testimony credible. The appellate court also stated that since the respondent did not object during the trial regarding the facts that were not alleged in the petition, and since his counsel had actually extensively questioned the petitioner, that he failed to preserve the issue for appeal.

<http://www.3dca.flcourts.org/Opinions/3D17-2167.pdf> (July 11, 2018)

Fourth District Court of Appeal

No new opinions for this reporting period.

Fifth District Court of Appeal

No new opinions for this reporting period.