

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

ERIN HEGEDUS,

Appellant,

v.

Case No. 5D19-958

DANIEL WILLEMIN,

Appellee.

_____ /

Opinion filed November 8, 2019

Appeal from the Circuit Court
for Brevard County,
Michelle Vitt Baker, Judge.

Cord Byrd, of Law Office of Cord Byrd, P.A.,
Jacksonville Beach, for Appellant.

Daniel Willemin, pro se.

EVANDER, C.J.,

Appellant, Erin Hegedus, appeals the Final Judgment of Injunction for Protection Against Stalking entered in favor of Daniel Willemin. Because there was not competent, substantial evidence to support the injunction, we reverse.

A petitioner may obtain an injunction to prevent stalking pursuant to section 784.0485, Florida Statutes (2018). *Roach v. Brower*, 180 So. 3d 1142, 1144 (Fla. 2d DCA 2015). Stalking is the offense of “willfully, maliciously, and repeatedly follow[ing],

harass[ing] or cyberstalk[ing] another person.” § 784.048(2), Fla. Stat. (2018). “Harass” in turn, means “to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.” § 784.048(1)(a), Fla. Stat. (2018). In order to be entitled to an injunction for stalking, the petitioner must allege and prove two separate instances of stalking. *David v. Schack*, 192 So. 3d 625, 627–28 (Fla. 4th DCA 2016).

The evidence reflects that Willemin and Hegedus were unpaid volunteers for Florida Health Connection, a non-profit organization. A verbal argument occurred between the two of them on August 22, 2018, and Hegedus’ participation in the organization was terminated a few days thereafter. The two incidents that appear to serve as the basis for the injunction occurred on August 30, 2018, and February 11, 2019. The first incident was at a public event held by Florida Health Connection. Willemin testified that Hegedus drove her vehicle into the parking lot where the event was being held. There was no evidence that she disrupted the event in any way. The second incident resulted from Hegedus allegedly following Willemin while he was driving in his residential neighborhood. (Hegedus apparently lived a few miles away.) That incident also included erratic driving and a brief verbal altercation.

Willemin’s evidence failed to support the granting of an injunction because Hegedus’ act of driving in a parking lot while a public event was taking place, in and of itself, was insufficient to establish one of the two required incidents of stalking. *Id.*¹

¹ Because we conclude the reversal is warranted for failing to prove two separate instances of stalking, we do not address Hegedus’ additional argument that Willemin failed to prove that her conduct rose to the level of causing a reasonable person “substantial emotional distress.” *Goudy v. Duquette*, 112 So. 3d 716, 717 (Fla. 2d DCA

Accordingly, we reverse the final judgment of injunction for protection entered below and remand with instructions to the circuit court to dissolve the injunction entered against Hegedus.

REVERSED and REMANDED.

WALLIS, J., and JACOBUS, B.W., Senior Judge, concur.

2013) (“In determining if an incident causes substantial emotional distress, courts use a reasonable person standard, not a subjective standard.”).