

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D19-3792

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KEVIN LEIGH BERKLEY,

Appellant,

v.

BRANDA ROY,

Appellee.

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On appeal from the Circuit Court for Walton County.  
Kelvin C. Wells, Judge.

August 19, 2020

PER CURIAM.

Appellant appeals a final judgment of injunction for protection against stalking. He argues that the trial court entered the injunction without allowing him the opportunity to address Appellee's allegations at the hearing. We agree and reverse for a new hearing.

"Parties are entitled to a full hearing prior to the trial court issuing a permanent injunction." *Furry v. Rickles*, 68 So. 3d 389, 390 (Fla. 1st DCA 2011); *see also* § 784.0485(4)–(6), Fla. Stat. (2019). "Just as the petitioner has the right to allege and prove the grounds for injunctive protection at a full and fair evidentiary hearing, the respondent is entitled to a fair hearing and protection from the effects of a final judgment of injunction that lacks any

evidentiary support.” *Newsom v. Newsom*, 221 So. 3d 1265, 1266 (Fla. 1st DCA 2017) (quoting *Johns v. Johns*, 101 So. 3d 377, 378 (Fla. 1st DCA 2012)). “Due process requires that each party have a ‘reasonable opportunity to address the allegations in the petition.” *Id.* “This includes allowing relevant testimony of pertinent, noncumulative witnesses who are present and cross-examination of the parties.” *Furry*, 68 So. 3d at 390.

At the brief evidentiary hearing held in this case, the trial court swore in the parties, who were both pro se, and asked some questions. It posed two questions to Appellee and then briefly questioned Appellant before issuing the injunction. In the course of answering questions, Appellant indicated that he had documents, a videotape, and witnesses ready to present in defense of the allegations. But the court did not give Appellant the opportunity to present his evidence, hear from Appellant’s two witnesses, or give Appellant the opportunity to cross-examine Appellee about the petition allegations. *See Parise v. Selph*, 175 So. 3d 389, 390 (Fla. 1st DCA 2015) (reversing injunction and concluding the appellant was not afforded due process when the trial court denied his request to present a witness).

Because the court did not allow Appellant a meaningful opportunity to present his defense, we REVERSE the injunction and REMAND for further proceedings consistent with this opinion.

B.L. THOMAS, OSTERHAUS, and BILBREY, JJ., concur.

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***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

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Clay B. Adkinson of Adkinson Law Firm, LLC, DeFuniak Springs, for Appellant.

No appearance for Appellee.