

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

CARL LAQUIDARA,)	
)	
Appellant,)	
)	
v.)	Case No. 2D19-3372
)	
MARK DUANE HOUGHTALING,)	
)	
Appellee.)	
_____)	
)	
CARL LAQUIDARA,)	
)	
Appellant,)	
)	
v.)	Case No. 2D19-3400
)	
DENISE SPANIAK HOUGHTALING,)	
)	
Appellee.)	<u>CONSOLIDATED</u>
_____)	

Opinion filed April 16, 2021.

Appeal from the Circuit Court for Lee
County; G. Keith Cary, Judge.

Theodore L. Tripp, Jr., and Jeffrey S.
Haut of Hahn Loeser & Parks LLP, Fort
Myers, for Appellant.

No appearance for Appellees.

KELLY, Judge.

In these consolidated appeals,¹ Carl Laquidara challenges final judgments of injunction for protection against stalking entered in favor of Mark and Denise Houghtaling.² Because the injunctions were not supported by competent, substantial evidence, we reverse.

Laquidara and the Houghtalings are neighboring business owners embroiled in a dispute over the use of an easement located on Laquidara's property. Unable to peacefully coexist, the Houghtalings filed petitions seeking injunctive relief alleging that Laquidara repeatedly stalked and harassed them by blocking access to their business by the manner in which he parked trucks and equipment on his property, by yelling and screaming at them, and by hurling profanities. At an evidentiary hearing, the Houghtalings testified that Laquidara's actions have caused them stress and anxiety. After hearing the evidence, the trial court determined that Laquidara's conduct constituted harassment and granted the Houghtalings' petitions for stalking injunctions.

¹In each case Laquidara filed a timely notice of appeal from the final judgment of injunction for protection against stalking and the order denying his motion to vacate the injunction.

²Because the injunctions have expired, we asked the appellant to show cause why his appeals had not become moot. In response, Laquidara explained that the Houghtalings have sought to have him held in contempt for violating the injunctions and that the trial court has referred the matter to the state attorney. Because he remains subject to criminal prosecution for the alleged violation, Laquidara's appeal is not moot. See Godwin v. State, 593 So. 2d 211, 212 (Fla. 1992) ("[A]n otherwise moot case will not be dismissed if collateral legal consequences that affect the rights of a party flow from the issue to be determined."); Wyandt v. Voccio, 148 So. 3d 543, 544 n.3 (Fla. 2d DCA 2014) (explaining that the pendency of criminal contempt proceedings based on an alleged violation of a stalking injunction is a collateral legal consequence that is an exception to the rule that moot cases should be dismissed).

The offense of stalking occurs when "[a] person . . . willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person." § 784.048(2), Fla. Stat. (2019). "Harass" is defined in the statute as engaging 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). Courts apply a reasonable person standard to determining if an incident causes substantial emotional distress, not a subjective standard. Sinopoli v. Clark, 290 So. 3d 159, 162 (Fla. 2d DCA 2020); Caterino v. Torello, 276 So. 3d 88, 92 (Fla. 2d DCA 2019). Further, the reasonable person standard is case specific in that it is applied to a person in the position of the party seeking the injunction. Sinopoli, 290 So. 3d at 162.

Regarding the element of emotional distress, the trial court credited the Houghtalings' testimony about how Laquidara's conduct affected them, and we do not second-guess that finding. But, because the standard is an objective one, we must still determine whether the evidence is sufficient to satisfy that standard. See id. at 163. Laquidara's conduct was admittedly uncivil and offensive; however, the evidence does not show that his actions rose to a level that would have caused a reasonable person in the Houghtalings' situation to suffer the substantial emotional distress necessary for an injunction. See id. (concluding that appellee's distress over her neighbor's yard maintenance and other conduct did not rise to the level of causing substantial emotional distress in a reasonable person); Caterino, 276 So. 3d at 94 (reversing an injunction for protection against stalking because a reasonable person would not suffer substantial emotional distress as a result of yelling and cursing).

Nor was the evidence sufficient to establish that Laquidara's conduct served no legitimate purpose. In determining whether conduct has a legitimate purpose, "courts have generally held that contact is legitimate when there is a reason for the contact other than to harass the victim." Cash v. Gagnon, 306 So. 3d 106, 110 (Fla. 4th DCA 2020) (quoting O'Neill v. Goodwin, 195 So. 3d 411, 413 (Fla. 4th DCA 2016)). The record shows that there was a legitimate reason for Laquidara to have contact with the Houghtalings—the parties' use of the easement. See Touhey v. Seda, 133 So. 3d 1203, 1205 (Fla. 2d DCA 2014) (concluding that contact regarding a dispute over the dissolution of a business served a legitimate purpose); Alter v. Paquette, 98 So. 3d 218, 220 (Fla. 2d DCA 2012) (stating that text messages demanding payment of loan served a legitimate purpose); Gonzalez v. Funes, 300 So. 3d 679, 682-83 (Fla. 4th DCA 2020) (holding that messages and calls by boyfriend's former girlfriend to his current girlfriend served a legitimate purpose in the context of a failed real estate transaction).

Because the injunctions were not supported by competent, substantial evidence, we reverse the final judgments of injunction and remand with instructions for the court to vacate the injunctions.

Reversed and remanded with instructions.

MORRIS and ROTHSTEIN-YOUAKIM, JJ., Concur.