

151 So.3d 60
District Court of Appeal of Florida,
Second District.

Matthew Lane PHILLIPS, Appellant,

v.

Rosalea Dawn HUGHES, Appellee.

No. 2D13–1238.

|

Nov. 7, 2014.

Synopsis

Background: Mother sought injunction for protection against domestic violence against father. The Circuit Court, Pinellas County, [Amy M. Williams](#), J., entered injunction, and father appealed.

[Holding:] The District Court of Appeal, [Kelly](#), J., held that mother failed to present sufficient evidence to establish the objective reasonableness of her fear that the danger of violence at the hands of father was imminent, and thus, injunction should not have been entered against father.

Reversed and remanded.

West Headnotes (2)

[1] [Protection of Endangered Persons](#)

[Domestic abuse and violence](#)

In order for the trial court to issue an injunction for protection against domestic violence, the party seeking the injunction must establish that he or she has an objectively reasonable fear that he or she is in imminent danger of becoming the victim of any act of domestic violence; in determining whether the victim's fear is reasonable, the trial court must consider the current allegations, the parties' behavior within the relationship, and the history of the relationship as a whole. [West's F.S.A. § 741.30\(1\)\(a\)](#).

[Cases that cite this headnote](#)

[2] [Protection of Endangered Persons](#)

[Domestic abuse and violence](#)

Mother failed to present sufficient evidence to establish the objective reasonableness of her fear that the danger of violence at the hands of father was imminent, and, thus, injunction for protection against domestic violence should not have been entered against father; parties had a contentious past relationship with a history of litigation over custody and visitation issues, but there had been no actual violence between the parties, and there was nothing in the record to show that domestic violence was imminent. [West's F.S.A. § 741.30\(1\)\(a\)](#).

[Cases that cite this headnote](#)

Attorneys and Law Firms

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Rosalea Dawn Hughes, pro se.

Opinion

[KELLY](#), Judge.

Matthew Lane Phillips appeals an injunction for protection against domestic violence entered against him based upon the petition of Rosalea Dawn Hughes, the mother of his child. Because the trial court's finding that Ms. Hughes had reasonable cause to believe she was in imminent danger of becoming the victim of domestic violence was not supported by competent, substantial evidence, we reverse.

[1] In order for the trial court to issue an injunction for protection against domestic violence, the party seeking the injunction must establish that he or she has an objectively reasonable fear that he or she is in “imminent danger of becoming the victim of any act of domestic violence.” [§ 741.30\(1\)\(a\), Fla. Stat. \(2012\)](#); see [Oettmeier v. Oettmeier](#), 960 So.2d 902, 904 (Fla. 2d DCA 2007); [Moore v. Hall](#),

[786 So.2d 1264, 1266 \(Fla. 2d DCA 2001\)](#). In determining whether the victim's fear is reasonable, “the trial court must consider the current allegations, the parties' behavior within the relationship, and the history *61 of the relationship as a whole.” [Giallanza v. Giallanza, 787 So.2d 162, 164 \(Fla. 2d DCA 2001\)](#) (citing [Gustafson v. Mauck, 743 So.2d 614, 616 \(Fla. 1st DCA 1999\)](#)).

[2] Here, the parties have a contentious past relationship with a history of litigation over custody and visitation issues. There has been no actual violence between the parties and nothing in the record to show that domestic violence was imminent. Because we conclude Ms. Hughes failed to present sufficient evidence to establish the

objective reasonableness of her fear that the danger of violence at the hands of Mr. Phillips was “imminent,” we reverse and remand with directions that the trial court vacate the injunction. See [Oettmeier, 960 So.2d at 905](#); [Moore, 786 So.2d at 1267](#).

Reversed and remanded.

[VILLANTI](#) and [LaROSE, JJ.](#), Concur.

All Citations

151 So.3d 60, 39 Fla. L. Weekly D2343