

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

ERIC GEROW,

Appellant,

v.

DAVID SCHROCK,

Appellee.

Nos. 2D2025-0933, 2D2025-1015

CONSOLIDATED

October 2, 2026

Appeal from the Circuit Court for Pasco County; Kemba J. Lewis and
Dustin Anderson, Judges.

Eric Gerow, pro se.

No appearance for Appellee.

SLEET, Judge.

In these two appeals, consolidated for purposes of opinion, Eric Gerow appeals from two orders dismissing his two petitions for injunctions for protection against stalking filed against David Schrock. We affirm both orders.

Gerow owns a condominium unit in Pasco County, and Schrock rents a unit in the same complex. Animosity developed between the two men when Schrock began parking his work truck in the complex parking

lot and allowing his nonresident coworkers to do the same. Gerow, as a member of the condominium association board, informed Schrock that a county ordinance prohibited such activity, and when Schrock did not comply, Gerow contacted Pasco County code enforcement. Gerow alleged in his initial petition that this angered Schrock, leading to several incidents of Schrock harassing Gerow beginning in August 2023.

"A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking" § 784.048(2), Fla. Stat. (2023). The statute defines *harass* as "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) (emphasis added).

Here, in denying Gerow's first petition, the trial court stated that "[t]he Defendant's conduct . . . must cause substantial emotional distress, which is greater than just ordinary feeling of distress. Mere irritation, annoyance, embarrassment, acerbation, aggravation, or frustration without more does not equate to substantial emotional distress." The court concluded that "the reasonable person standard for substantial emotional distress is not met where no threats were made or [only] public embarrassment was involved. . . . [S]o I'm going to deny your petition for injunction for stalking."

"An order . . . denying an injunction following an evidentiary hearing is normally reviewed for an abuse of discretion. 'The trial court is afforded broad discretion in . . . denying . . . injunctions, and unless a clear abuse of discretion is demonstrated, an appellate court must not disturb the trial court's decision.' " *Paylan v. Statton*, 376 So. 3d 822, 825 (Fla. 2d DCA 2023) (quoting *Shaw v. Tampa Elec. Co.*, 949 So. 2d 1066, 1068 (Fla. 2d DCA 2007)). "But the question of whether the

evidence is legally sufficient to justify imposing an injunction is a question of law that we review de novo." *Washington v. Brown*, 300 So. 3d 338, 340 (Fla. 2d DCA 2020) (quoting *Pickett v. Copeland*, 236 So. 3d 1142, 1144 (Fla. 1st DCA 2018)). On appeal, Gerow maintains that the court abused its discretion in denying his petition. We cannot agree.

Because Gerow alleged below that Schrock harassed him, Gerow was required under the statute to establish that Schrock's actions caused him "substantial emotional distress." See § 784.048(1)(a).

"Critically, '[i]n determining if an incident causes substantial emotional distress, courts use a reasonable person standard, not a subjective standard.' " That is, we consider whether the conduct would cause substantial emotional distress to a reasonable person in the petitioner's shoes. This level of distress "is greater than ordinary distress," and "[a]nnoyance, frustration, or embarrassment will not suffice." As we've also explained, "a reasonable person does not suffer substantial emotional distress easily."

Abercrombie v. Nenneman, 401 So. 3d 614, 616 (Fla. 2d DCA 2025) (alterations in original) (citations omitted) (first quoting *Sinopoli v. Clark*, 290 So. 3d 159, 162 (Fla. 2d DCA 2020); then quoting *Kaye v. Wilson*, 363 So. 3d 1155, 1159 (Fla. 2d DCA 2023); then quoting *Potts v. Lewis*, 372 So. 2d 322, 323 (Fla. 2d DCA 2023); and then quoting *Kaye*, 363 So. 3d at 1159). " '[T]he "substantial emotional distress" that is necessary to support a stalking injunction is greater than just an ordinary feeling of distress' or simple embarrassment." *Craft v. Fuller*, 298 So. 3d 99, 104 (Fla. 2d DCA 2020) (quoting *Venn v. Fowlkes*, 257 So. 3d 622, 624 (Fla. 1st DCA 2018)).

At the March 2025 hearing on his first petition, Gerow testified that he had approximately fifty to sixty interactions with Schrock since the conduct started in August 2023, but on cross-examination he clarified that only about a dozen of those times did Schrock actually approach

him. The other times included Schrock walking his dog near Gerow's building or standing in the parking lot where Gerow parks despite living in a different part of the complex. On some occasions, Schrock would call out to Gerow, but on others, Schrock would say nothing. Gerow further testified that the first couple of times Schrock approached him, Gerow would simply walk away but that after that Gerow "would just face [Schrock] until [Gerow] determined that . . . wasn't going to be the day that [Schrock] flew off the handle, and then [Gerow] would walk away." Gerow explained that at the beginning of this course of conduct, Schrock would challenge him to fights but that after Gerow called the police, Schrock would only yell "bizarre random things" and loudly "catcall and screech" at him.¹

As to specific incidents, Gerow testified that on the day that he called code enforcement, Schrock came to Gerow's door with another man and woman and banged on the door while "yelling things like we know you're in there. Come out. You're hiding in there. And this sort of thing." Schrock remained for "several minutes," but Gerow did not open his door and Schrock eventually left. On another occasion, Gerow was walking on the side of the road leading into the complex when Schrock drove out of the complex. Gerow testified that Schrock "steered right up to the edge of the road," "flicked his headlights on and off," and "almost clipped me with his [side]view mirror." By Gerow's own testimony, he was walking in the grass on the side of the road and Schrock's vehicle did not leave the roadway; rather, Gerow only had to move further away from the road. When asked on cross-examination if he had reported the

¹ In his petition for injunction, Gerow alleged that on one occasion Schrock yelled at him, "God loves you, have a nice weekend" and on a different occasion mockingly yelled, "Call the police! Call the police!"

incident to the police, Gerow testified that he had not and stated, "I think I had something urgent to do, and I couldn't waste another afternoon playing this game." Finally, Gerow testified that Schrock showed up at his gym, which was next to the condominium complex. While in the gym, Schrock worked out but never spoke to Gerow.

While Gerow's testimony evidences that Schrock's behavior was at times annoying, frustrating, and embarrassing, we agree with the trial court that it is not competent substantial evidence of substantial emotional distress using the reasonable person standard. Schrock's actions were obnoxious, but by his own testimony, Gerow typically ignored him and walked away. Schrock is a resident of the condominium complex and accordingly has a right to be present throughout the complex and at neighboring businesses. Calling out mockingly to Gerow is certainly childish, but we construe narrowly whether Schrock's actions would cause substantial emotional distress. *Cf. Scott v. Blum*, 191 So. 3d 502, 504 (Fla. 2d DCA 2016) ("Whether a communication causes substantial emotional distress should be narrowly construed" (quoting *David v. Textor*, 189 So. 3d 871, 875 (Fla. 4th DCA 2016))). The two most serious allegations—Schrock banging on Gerow's door and Schrock driving up to the edge of the roadway next to which Gerow was walking—certainly would be distressing in the moment, but to be entitled to an injunction for protection against stalking, a petitioner must establish substantial emotional distress that is "greater than just an ordinary feeling of distress." *See Craft*, 298 So. 3d at 104 (quoting *Venn*, 257 So. 3d at 624). Accordingly, we cannot say that the trial court abused its discretion in denying Gerow's first petition.

In his second petition, Gerow alleged that Schrock continued to harass him. At the hearing on the petition, Gerow testified that a few

days after the denial of his first petition, there was a homeowners association meeting for the condominium complex that Schrock and two coworkers attended despite none of them owning units in the complex. Gerow alleged that they were at the meeting for the sole purpose of intimidating him and added that Schrock did not sit in the provided seating area but rather "pulled a folding chair from the wall and set it up directly opposite me, parallel to me." He also produced eighteen photographs that he took of Schrock at the meeting, but the photos establish that Schrock was on the opposite side of the room from Gerow. Gerow added that during the meeting, Schrock smirked at him and that at the end of the meeting, Schrock and his coworkers stood in the doorway and Schrock told him mockingly to file another injunction.

The trial court denied the petition, concluding that "no reasonable person could suffer substantial emotional distress based on the conduct that was testified to." This conclusion is supported by competent substantial evidence. Gerow's testimony only established that Schrock and two coworkers attended a public meeting, sat across the room but parallel to Gerow, and attempted to mock him. Gerow remained at the meeting and, in fact, openly took eighteen photographs of Schrock.² This does not establish substantial emotional distress "greater than just an ordinary feeling of distress' or simple embarrassment." *See Craft*, 298 So. 3d at 104.

We do note that Gerow also argues on appeal that a showing of substantial emotional distress is not required if the stalking petition is based on allegations that the respondent "willfully, maliciously, and

² Gerow testified that while at the meeting, Schrock was on the phone and told whomever he was speaking to that Gerow was there and was photographing him.

repeatedly follow[ed]" the petitioner, as opposed to allegations based on harassment or cyberstalking. See § 784.048(2). Gerow correctly points out that the substantial emotional distress requirement does not appear in the description of *stalking* found in section 784.048(2), but rather appears in the statutory definitions of *harass* and *cyberstalk* set forth in section 784.48(1)(a) and (d). He maintains that because the statute does not define *follows*, that term should be interpreted by its ordinary meaning, which does not include resulting in substantial emotional distress. See *Dep't of Child. & Fams. v. Herstein*, 399 So. 3d 384, 390 (Fla. 1st DCA 2025) ("In determining the meaning of a statutory provision undefined by the [l]egislature, courts 'presume that the term bears its ordinary meaning at the time of enactment, taking into consideration the context in which the word appears.' " (quoting *Conage v. United States*, 346 So. 3d 594, 599 (Fla. 2022))).

Gerow, however, has not preserved this argument for appellate review by raising it before the trial court. Nor does he raise it as fundamental error on appeal. Accordingly, this argument is not properly before this court. See *Sciame v. Sciame*, 215 So. 3d 190, 191-92 (Fla. 2d DCA 2017) ("We reject this argument because [appellant] failed to make this argument to the trial court. 'In order to be preserved for further review by a higher court, an issue must be presented to the lower court and the specific legal argument or ground to be argued on appeal or review must be part of that presentation if it is to be considered preserved.' " (citation omitted) (quoting *Franklin v. Patterson-Franklin*, 98 So. 3d 732, 738 (Fla. 2d DCA 2012))); see also *Spaulding v. Spaulding*, 326 So. 3d 186, 187 (Fla. 1st DCA 2021) (holding that appellant waived appellate review of unpreserved argument by not raising it on appeal as fundamental error).

Affirmed.

LaROSE and MORRIS, JJ., Concur.

Opinion subject to revision prior to official publication.