

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

TERENCE K. WOLFE,

Appellant,

v.

JOSEPH ANTHONY MARTINEZ,

Appellee.

No. 2D2025-1626

October 2, 2026

Appeal pursuant to Fla. R. App. P. 9.130 from the Circuit Court for Hillsborough County; Frances M. Perrone, Judge.

Terence K. Wolfe, pro se.

No appearance for Appellee.

LaROSE, Judge.

Terence K. Wolfe, pro se, appeals an amended order summarily denying his petition for injunction for protection against repeat violence against his neighbor, Joseph Anthony Martinez, *see* § 784.046(2)(a), Fla. Stat. (2025), and an order denying his motion to disqualify the trial judge.

We have jurisdiction over the injunction order. See Fla. R. App. P. 9.030(b)(1)(B); 9.130(a)(3)(B). Because the petition's allegations were sufficient to warrant an evidentiary hearing, we reverse.

However, rule 9.130 does not allow our interlocutory review of the disqualification order. See *Diversicare Mgmt. Servs. Co. v. Est. of Catt ex rel. Cook*, 267 So. 3d 560, 563 (Fla. 2d DCA 2019). Thus, we treat this portion of the appeal as a petition for writ of prohibition. See Fla. R. App. P. 9.040(c); see also *Carrow v. Fla. Bar*, 848 So. 2d 1283, 1285 (Fla. 2d DCA 2003). We deny the petition for the writ. See *Cano v. State*, 884 So. 2d 131, 134 (Fla. 2d DCA 2004) ("The fact that a judge has made adverse rulings in the past against a defendant or that the judge has previously heard the evidence are generally considered insufficient reasons to disqualify a judge."); *McGauley v. Goldstein*, 653 So. 2d 1108, 1109 (Fla. 4th DCA 1995) (explaining that a district court's reversal of a trial court's holding does not in itself suggest that the trial judge had "a bias or a prejudice contrary to the parties"). We address the disqualification issue no further.

I. Background

Mr. Wolfe made the following allegations in his injunction petition. On March 23, 2025, while Mr. Wolfe was walking his dog, Mr. Martinez "followed" and "accosted" Mr. Wolfe. He approached Mr. Wolfe, "rage[d], curse[d], and shout[ed] at [Mr.] Wolfe before hurrying away."

Later, during a routine night walk with his dog on May 12, 2025, Mr. Wolfe saw Mr. Martinez and his son watching him. They jumped into a vehicle, sped past Mr. Wolfe and his dog with "only a few feet to spare," and shouted verbal abuse at Mr. Wolfe.

Allegedly, Mr. Martinez's harassment escalated a couple of days later, on May 14, 2025. That night, Mr. Wolfe was, again, walking his

dog. Mr. Martinez exited his home and walked towards Mr. Wolfe, with his son following behind, recording the planned encounter. Mr. Martinez crossed the street, got within striking distance of Mr. Wolfe, and blocked his path. Mr. Martinez raised his arm, as if to strike Mr. Wolfe, and repeatedly shouted, "F you Wolfe!" Allegedly, Mr. Martinez repeatedly lurched forward. Mr. Wolfe feared being hit. He called Mr. Martinez's behavior "repeated, deliberate, aggressive[,] and menacing."

The trial court summarily denied the petition, finding that Mr. Wolfe failed to allege sufficient facts to support entry of an injunction. According to the trial court,

[t]hough the petition reports various, verbal comments by Respondent towards Petitioner, the reported acts of the Petitioner do not meet the definition of violence or stalking as defined by Florida Statutes. The petition reports various acts of property damage, on-line [sic] posts and other activity without evidence those acts are attributable to the named Respondent. The allegations set forth do not include evidence of two or more acts of violence or stalking by the named Respondent as required by Florida Statutes to support the entry of an injunction for protection against repeat violence.

Mr. Wolfe moved to vacate the order. He also moved to disqualify the trial judge. The trial court denied Mr. Wolfe's motions. He now appeals.

II. Discussion

We review the trial court's denial of the injunction petition de novo. *See Frost v. Wilson*, 320 So. 3d 820, 824 (Fla. 2d DCA 2021) (explaining that we review legal questions de novo); *see also Anthony v. State*, 277 So. 3d 223, 225 (Fla. 2d DCA 2019) ("The circuit court's dismissal of Mr. Anthony's petition as facially insufficient is subject to de novo review.").

A petitioner may seek an injunction for protection against repeat violence under section 784.046. The statute defines "violence" and "repeat violence" as follows:

(a) "Violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person.

(b) "Repeat violence" means two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member.

§ 784.046(1). The trial court must hold a hearing where the petitioner "allege[s] the incidents of repeat violence . . . and . . . include[s] the specific facts and circumstances that form the basis upon which relief is sought." See § 784.046(4)(a), (5).

Mr. Wolfe's allegations entitled him to an evidentiary hearing. See § 784.046(1); *see also Waler v. Lovett*, 905 So. 2d 972, 973 (Fla. 5th DCA 2005) ("Our review of Waler's petition to the trial court indicates that she complied with the required allegations entitling her to a full hearing on her petition."). Mr. Wolfe alleged that Mr. Martinez repeatedly engaged in threatening behavior. As a result, Mr. Wolfe feared for his safety.

The trial court should have conducted a hearing under section 784.046(5).¹

III. Conclusion

¹ Mr. Wolfe has not argued that he was entitled to a temporary injunction prior to a hearing. Thus, we do not reach that issue. See *Polyglycoat Corp. v. Hirsch Distribs., Inc.*, 442 So. 2d 958, 960 (Fla. 4th DCA 1983).

Because Mr. Wolfe alleged incidents of repeated violence in his petition, we reverse the trial court's order. On remand, the trial court shall set a hearing in accordance with section 784.046(5). We deny the writ of prohibition as to the motion to disqualify.

Amended order reversed and remanded with instructions; petition for writ of prohibition denied.

KELLY, J., Concurs.

BLACK, J., Concurs in result only.

Opinion subject to revision prior to official publication.