

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D17-3449

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JAKE ALLEN DAILEY,

Appellant,

v.

MICHAEL JEFFREY ROTH,

Appellee.

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**CORRECTED PAGES: pg 1**  
**CORRECTION IS UNDERLINED**  
**IN RED**  
**MAILED: January 24, 2019**  
**BY: KMS**

On appeal from the Circuit Court for Nassau County.  
Robert M. Foster, Judge.

January 22, 2019

PER CURIAM.

Florida law authorizes a “cause of action for an injunction for protection in cases of repeat violence.” § 784.046(2), Fla. Stat. (2017). Michael Roth pursued such an action against Jake Dailey, and the trial court entered a permanent injunction. Dailey now appeals, contending there was insufficient evidence to support the injunction.

The evidence presented below showed an acrimonious relationship between Dailey and Roth, whose ex-wife was engaged to Dailey. The two men exchanged uncivil text messages and had a tense exchange at a Little League game. The evidence proved the men behaved badly, but it was insufficient to support the injunction. *See* § 784.046(1)(b) (defining “repeat violence”); *cf.*

*Russell v. Doughty*, 28 So. 3d 169, 170 (Fla. 1st DCA 2010) (“Mere shouting and obscene hand gestures, without an overt act that places the victim in fear, does not constitute the type of violence required for an injunction.” (quoting *Sorin v. Cole*, 929 So. 2d 1092, 1094 (Fla. 4th DCA 2006)); *cf. also Jones v. Jackson*, 67 So. 3d 1203, 1205 (Altenbernd, J., concurring) (“It might occasionally be helpful if the circuit courts had the power to enter an order requiring adults to act like grownups. But a permanent injunction for protection against repeat violence cannot be used simply to compel civility and common decency.”).

REVERSED.

ROBERTS, RAY, and WINSOR, 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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Jason K. Hutchinson, Jacksonville, for Appellant.

No appearance for Appellee.