

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Elnenaey v. Elkadi

Elnenaey · No. No. 2D2025-1247 · Decided May 13, 2026

SUMMARY

The Florida Second District Court of Appeal dismissed Ahmed Elnenaey's appeal from a final domestic-violence injunction because his motion to vacate did not toll the time for appealing the judgment. The court affirmed the denial of his motion to vacate because he did not support it with an affidavit or other sworn statement establishing excusable neglect.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Per curiam; ROTHSTEIN-YOUAKIM; KELLY; SMITH
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	May 13, 2026
DOCKET	No. 2D2025-1247
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from a final judgment of injunction for protection against domestic violence and from the trial court's denial of a motion to vacate that judgment.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Ahmed Elnenaey v. Laila Elkadi

TOPICS

- domestic violence
- injunctions
- appellate jurisdiction
- appellate procedure
- family law procedure

PRACTICE AREAS

- family law
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the court had jurisdiction to review the final injunction judgment when the appellant's motion to vacate did not toll rendition of that judgment.

2. Whether the trial court properly denied the motion to vacate when the appellant failed to support it with an affidavit or other sworn statement.

HOLDINGS

1. A motion to vacate under Florida Family Law Rule of Procedure 12.540(b) does not affect the finality or suspend the operation of the judgment and therefore does not toll rendition or the time for appealing the judgment. The court consequently lacked jurisdiction to review the appeal from the injunction judgment.
2. The denial of the motion to vacate was affirmed because excusable neglect must be proven by sworn statements or affidavits, and the appellant did not support his motion with an affidavit or other sworn statement.

KEY QUOTATIONS

“A motion under this subdivision does not affect the finality of a judgment or suspend its operation.” (2)

“Excusable neglect must be proven by sworn statements or affidavits. Unsworn assertions of excusable neglect are insufficient.” (2)

FACTUAL BACKGROUND

The circuit court entered a final judgment of injunction for protection against domestic violence against Ahmed Elnenaey. Elnenaey moved to vacate the judgment, but his motion was not supported by an affidavit or other sworn statement; the circuit court denied the motion.

PROCEDURAL HISTORY

The Hillsborough County Circuit Court entered a final judgment of injunction for protection against domestic violence against Elnenaey and denied his motion to vacate. The Second District dismissed the portion of the appeal challenging the injunction judgment for lack of jurisdiction and affirmed the denial of the motion to vacate.

DISPOSITION

other

CASES CITED

- Hatton v. Barnett Bank of Palm Beach Cnty., 550 So. 2d 65, 66 (Fla. 2d DCA 1989)
- Geer v. Jacobsen, 880 So. 2d 717, 720 (Fla. 2d DCA 2004)
- DiSarrio v. Mills, 711 So. 2d 1355, 1356 (Fla. 2d DCA 1998)

OPINION

Elnenaey v. Elkadi

PER CURIAM.

DISTRICT COURT OF APPEAL OF FLORIDA

SECOND DISTRICT

AHMED ELNENAEY,

Appellant, v.

LAILA ELKADI,

Appellee. No. 2D2025-1247 May 13, 2026 Appeal from the Circuit Court for Hillsborough County; Frances M. Perrone, Judge. Ahmed Elnenaey, pro se. Laila Elkadi, pro se. ROTHSTEIN-YOUAKIM, Judge. Ahmed Elnenaey appeals a final judgment of injunction for protection against domestic violence entered against him as well as the trial court's denial of his motion to vacate that judgment. We dismiss for lack of jurisdiction his appeal of the judgment because his motion to vacate did not toll rendition of the judgment. See Fla. Fam. L. R. P. 12.540(b) ("A motion under this subdivision does not affect the finality of a judgment or suspend its operation."); see also *Hatton v. Barnett Bank of Palm Beach Cnty.*, 550 So. 2d 65, 66 (Fla. 2d DCA 1989) (noting that motions filed under counterpart Florida Rule of Civil Procedure 1.540 "do not suspend rendition of the final judgment (and therefore do not toll the time for filing an appeal)"). Although we have jurisdiction to review the trial court's denial of Elnenaey's motion to vacate, see Fla. R. App. P. 9.130(a)(5), we affirm because Elnenaey did not support his motion with an affidavit or other sworn statement, see *Geer v. Jacobsen*, 880 So. 2d 717, 720 (Fla. 2d DCA 2004) ("Excusable neglect must be proven by sworn statements or affidavits. Unsworn assertions of excusable neglect are insufficient." (quoting *DiSarrio v. Mills*, 711 So. 2d 1355, 1356 (Fla. 2d DCA 1998))). Dismissed in part; affirmed in part. KELLY and SMITH, JJ., Concur. Opinion subject to revision prior to official publication. 2