

FLORIDA FIRST DISTRICT COURT OF APPEAL

Mary C. Schmigel v. Carson Wade Schmigel; Mary C. Schmigel v. Carson Wade Schmigel O/B/O H.S.

Schmigel · No. Nos. 1D2024-1572, 1D2024-1597 · Decided March 12, 2025

SUMMARY

The Florida First District Court of Appeal affirmed two final domestic-violence injunctions entered in favor of Carson Wade Schmigel and Carson Schmigel on behalf of H.S. The court held that allowing the parties’ sixteen-year-old child to attend and testify at the noticed injunction hearing without a prior order under Florida Family Law Rule of Procedure 12.407(a) did not violate the respondent parent’s due process rights.

CASE DETAILS

COURT	Florida First District Court of Appeal
WRITING FOR THE COURT	BILBREY, J.; Bilbrey, J.; Lewis, J.; Winokur, J.
JURISDICTION	Florida First District Court of Appeal
DECIDED	March 12, 2025
DOCKET	Nos. 1D2024-1572, 1D2024-1597
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from two final injunctions for protection against domestic violence entered by the Circuit Court for Jefferson County.
STANDARD OF REVIEW	De novo review applies to a claim that a party was denied procedural due process.
PRECEDENTIAL VALUE	published
PARTIES	Mary C. Schmigel v. Carson Wade Schmigel, Carson Wade Schmigel O/B/O H.S.

TOPICS

- domestic violence
- family law procedure
- procedural due process
- appellate procedure
- mootness

PRACTICE AREAS

- family law
- domestic violence
- civil procedure
- constitutional law

QUESTIONS PRESENTED

1. Whether allowing the minor child H.S. to attend and testify at the final domestic-violence-injunction hearings without a prior court order under Florida Family Law Rule of Procedure 12.407(a) violated Schmigel's procedural due process rights.
2. Whether the expiration of the domestic-violence injunctions rendered the appeals moot.

HOLDINGS

1. Florida Family Law Rule of Procedure 12.407(a), which protects minor children from unnecessary involvement in family-law proceedings, does not expand the procedural due process rights of a respondent parent defending against a domestic-violence-injunction petition. Because Schmigel received notice and a reasonable opportunity to challenge the allegations, allowing H.S. to attend and testify without a prior court order did not violate due process.
2. The appeals were not moot because collateral consequences can flow from expired domestic-violence injunctions.

KEY QUOTATIONS

“Because rule 12.407(a) was promulgated to protect minor children who may be harmed by unnecessary involvement in family law proceedings, we find that the rule does not expand the due process rights of a respondent parent defending against a petition for injunction against domestic violence.” (at 4)

“Because we find no violation of Appellant’s due process rights in the trial court’s allowing H.S. to attend the hearing and testify without a prior order of the court, the final judgments on appeal are AFFIRMED.” (at 4)

FACTUAL BACKGROUND

The trial court held simultaneous final hearings on two domestic-violence injunction petitions after notice. H.S., who was sixteen years old, attended the hearings and testified without a prior court order under Florida Family Law Rule of Procedure 12.407(a). Schmigel heard H.S.'s testimony and had the opportunity through counsel to cross-examine her; she did not assert a contemporaneous objection to the admissibility of the testimony or move to continue the hearing. The trial court found H.S.'s testimony and demeanor highly credible, and the injunctions later expired on February 27, 2025.

PROCEDURAL HISTORY

Mary Schmigel appealed two final domestic-violence injunctions entered in favor of Carson Schmigel individually and Carson Schmigel on behalf of the parties' minor child, H.S. The appeals involved separate cases but the final hearings were conducted simultaneously. The First District Court of Appeal affirmed both final judgments.

DISPOSITION

affirmed

CASES CITED

- Lopez v. Regalado, 257 So. 3d 550, 554-55 (Fla. 3d DCA 2018)
- Vaught v. Vaught, 189 So. 3d 332, 334 (Fla. 4th DCA 2016)
- Sanchez v. Marin, 138 So. 3d 1165, 1167 (Fla. 3d DCA 2014)
- Furry v. Rickles, 68 So. 3d 389, 390 (Fla. 1st DCA 2011)
- Smith v. Smith, 964 So. 2d 217, 219 (Fla. 2d DCA 2007)
- Malone v. Malone, 368 So. 3d 1057, 1058 (Fla. 1st DCA 2023)
- A.V. v. T.L.L., 321 So. 3d 940, 942 (Fla. 2d DCA 2021)

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