

**IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA.**

CASE NO. 05-2023-DR-22344-XXXX-XX

**ALLISON STAUFFER,
Petitioner,**

v.

**CRISTEL BAILEY,
Respondent.**

_____ /

**ORDER DENYING PETITION FOR
INJUNCTION FOR PROTECTION AGAINST STALKING**

THIS CAUSE came to be heard before the Court on April 25, 2023 upon the Petitioner's Petition for Injunction for Protection Against Stalking, filed on March 29, 2023. A temporary injunction was issued on March 29, 2023. The Court has heard and considered the evidence presented and the arguments of counsel and has carefully reviewed this motion. Based upon this review, and being otherwise fully advised in the premises, the Court makes the following findings of fact and conclusions of law:

a. The Petitioner's husband was the Director of Water Resources in Titusville and the Respondent is a water activist in Brevard County. It appears that the Respondent and the Petitioner's husband had some differences concerning Titusville water and a public records request that was made to the Department of Water Resources. The situation between the Petitioner and the Respondent began in March, 2021 after the Respondent commented on a post on the Talk of Titusville Facebook page stating that there was a possibility that parking meters could be installed at a park in Titusville. The Petitioner commented that this was fear mongering. After some back and forth between the two, the Petitioner made a comment that included a

middle finger emoji as well as a comment offering to meet the Respondent at a brewery to discuss the matter. After the Petitioner removed herself from the conversation, the Respondent continued to discuss the Petitioner's comments on the Facebook page with other people making disparaging comments about the Petitioner. The Respondent also discussed the Petitioner's comments on other occasions on social media over the next couple of years.

b. The Petitioner claims that the Respondent conspired to file a complaint against her at her place of employment. The evidence showed that the Petitioner is an exercise instructor at the Titusville YMCA and that she had an altercation with Stan Johnston who is a member of the YMCA. Johnston knows the Respondent through his involvement in local politics. Johnston testified that at some point the Respondent sent him an email which included the above-mentioned Facebook exchange between the Petitioner and the Respondent. Johnston testified that after his experience with the Petitioner at the YMCA and after reading the Petitioner's Facebook comments, he decided to file a complaint against her at the YMCA. No evidence was presented that the Respondent knew that the Petitioner worked at the YMCA or that she encouraged Johnston to file a complaint against her.

c. The Petitioner also claims that the Respondent posted a picture of her adult daughter on social media. The Respondent testified that she posted the picture after the daughter made comments on social media which caused the Respondent to block her. The daughter has a different last name than the Petitioner and no evidence was presented that the Respondent knew that this person was the daughter of the Petitioner.

d. The Petitioner claims that the Respondent's actions have caused her emotional distress. The Petitioner's husband also testified that her actions have caused his wife emotional distress and has put a strain on their marriage.

e. Section 784.048(2), Florida Statutes (2023) states that stalking occurs when a person "willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person." Section 784.048(1)(d) defines cyberstalking, in relevant part as "[t]o engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person... causing substantial emotional distress to that person and serving no legitimate purpose."

f. In Santiago v. Leon, 299 So. 3d 1114 (Fla. 3d DCA 2020), the court held that Facebook posts which are placed on a person's Facebook page for all of their "friends" to see and are not directed at a specific person, do not constitute cyberstalking. See also Scott v. Blum, 191 So. 3d 502 (Fla. 2d DCA 2016). However, at the time these cases were decided, the statute defined cyberstalking as electronic mail or communications "directed at a specific person." In 2021, the statute was amended to include the language "or pertaining to." Therefore, it appears that social media posts which pertain to a specific person might constitute cyberstalking.

g. Despite this, the Court finds that the actions of the Respondent do not amount to cyberstalking. The unfortunate situation between the Petitioner and the Respondent began when the Petitioner made a negative comment to the Respondent's post about parking meters. The Petitioner then continued to make negative, insulting comments directed towards the

Respondent. In fact, the Petitioner later made a comment on social media that the Respondent's hair looked like that of a clown. When a person makes comments on a public social media account, they should be aware that those comments are available for anyone to see and that they could come back to haunt them in the future. The Respondent continued to post the Petitioner's comments on social media for approximately two years after they were initially posted and emailed the comments to Stan Johnston who used them as a basis to file a complaint against her at her workplace. The Respondent's posts and email portrayed the Petitioner in a bad light because of the unkind words and emojis the Petitioner used when she commented on the Respondent's post about parking meters. Therefore, the Petitioner's emotional distress was due in part to her own actions.

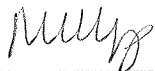
h. Furthermore, based upon the Petitioner's testimony, the emotional distress she experienced was mostly caused by the complaint that was filed against her at work and the picture of her daughter that the Respondent posted on social media. However, no evidence was presented that the Respondent knew that the Petitioner worked at the YMCA or that Johnston intended to file a complaint against her. No evidence was presented that she was involved in the filing of the complaint at all. There was also no evidence that the post of the Petitioner's daughter was directed at or pertained to the Petitioner. The Respondent testified that she posted the picture because the daughter had posted something which caused the Respondent to block her and because the Respondent wanted to let people know why she was blocking her. Therefore, the emotional distress that the Petitioner experienced due to these two experiences was not caused by actions of the Respondent which were directed at or pertained to the Petitioner.

i. The Court finds that the Petitioner is not a victim of stalking.

Accordingly, it is **ORDERED AND ADJUDGED:**

The Petitioner's Petition for Injunction for Protection Against Stalking is **DENIED**.

DONE AND ORDERED in Viera, Brevard County, Florida, this 9th
day of May, 2023.


NANCY MALONEY
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I do certify that copies hereof have been furnished to Pausha Taghdiri, Esq., Attorney for the Petitioner, 189 South Orange Avenue, Suite 1800, Orlando, Florida 32801, and Alton Edmond, Esq., Attorney for the Respondent, 125 E. Merritt Island Cswy., Suite 107, Merritt Island, Florida 32952, by U.S. mail/e-filing, this 10th day of May, 2023.


Judicial Assistant
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