



Eighth Judicial Circuit of Florida

Alachua, Baker, Bradford, Gilchrist, Levy and Union Counties

Chambers of
David A. Glant
Circuit Judge

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November 9, 2005

Hon. Barbara J. Pariente, Chief Justice
Hon. Charles T. Wells
Hon. Harry Lee Anstead
Hon. R. Fred Lewis
Hon. Peggy A Quince
Hon. Raoul G. Cantero, III
Hon. Kenneth G. Bell

Re: Public Comment: Proposal #4(b) for Jury Instruct 8.7(a)

Honorable Justices of the Florida Supreme Court:

I am opposed to the changes proposed in the above-referenced jury instruction for Aggravated Stalking. The first change is to add the word "cyberstalked" to paragraph #1. Elsewhere in the proposed instruction, that word is defined. Both the newly-coined word and its definition are unnecessary.

There are crimes for which the internet and computers, etc., must be included in jury instructions. Just one example would be F.S. §800.04(7)(b) "Lewd and Lascivious Exhibition over a Computer Service." But the elements of the crime of Aggravated Stalking are not changed by the use of the internet, e-mail, or computer technology.

Aggravated Stalking is committed by *willfully, maliciously and repeatedly following or harassing a victim* and by *making a credible threat with the intent to place the victim in reasonable fear of death or bodily injury to him/her self* (or child, sibling or dependent).

This crime would be committed if the means by which the “following” or “harassing” of a victim is done by the defendant in any of the following means (and this list is not exhaustive):

Defendant’s physical presence; by U.S. Mail; by telephone; by computer; by e-mail; by cell phones; CB Radio; or even by personal “blogs” published online by the defendant. This latter category would include circumstances where a defendant spitefully and maliciously published or “posted” compromising or intimate photographs of a victim onto a website.

Each of the above-listed means of committing Aggravated Stalking are already well-covered by the existing jury instruction. The *means* by which the conduct or communication (constituting the harassment) is completed makes not one whit of difference.

Adding the newly popularized term “Cyberstalking” to define a new method of Aggravated Stalking does not identify anything new or different. In fact, that is precisely my objection to the proposed change to the rule; the crime of Aggravated Stalking is a completed crime upon the “following” or “harassing” (and the credible threat) *no matter how those acts are communicated or transmitted.*

Aside from being unnecessary, it could be misleading. Creating a word, then defining it, gives the impression that the crime was *not* otherwise included within the current instruction. So, if future facts are presented with some non-defined method of aggravating stalking, a jury might conclude that lack of a precise mentioned method would be a defense.

Finally (and I saved this non-legal reason for last), the invented word is just plain annoying.

Sincerely,

David A. Glant
Circuit Judge

cc: distribution as per rule