

# In re Burden of Proof v. Standard of Review

March 30, 2022

A [Florida appellate court](#) recently wrote to reiterate the difference between (1) the evidentiary burden of proof for a party in the trial court and (2) the appellate standard of review. The distinction was dispositive of the appellant's argument on appeal, where she sought reversal of the trial court's order denying her an injunction for protection against sexual violence. The court explained that the appellant's argument "conflates the burden of evidentiary proof in the trial court proceedings with the legal requirement that the trial court's findings of fact shall be sustained by an appellate court if supported by competent, substantial evidence." Quoting *Black's Law Dictionary*, the court explained that "[a] 'burden of proof' is 'a party's duty to prove a disputed assertion or charge.'" In the case at issue, the burden of proof in the trial court was a preponderance of the evidence, which the trial court found the appellant failed to meet. Competent, substantial evidence on appellate review, on the other hand, is merely the "existence of some evidence (quantity) as to each essential element and as to the legality and admissibility of that evidence." In short, appellate courts do not reweigh the evidence; they simply look to see if there is some admissible evidence to support the trial court's ruling. The appellate court concluded that because there was directly conflicting evidence by equally credible witnesses on the critical issues in the trial court - in other words, there was some admissible evidence to support the trial court's ruling - the trial court correctly found the appellant "did not meet her burden of proving, by a preponderance of the evidence, that sexual violence had occurred." Therefore, it affirmed.

## Tips:

- As the appellant, be careful to understand the appellate standard of review, and frame the argument to demonstrate error(s) that will satisfy that standard of review.

## Authored By

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