

Third District Court of Appeal

State of Florida

Opinion filed August 31, 2015.
Not final until disposition of timely filed motion for rehearing.

No. 3D15-1416
Lower Tribunal No. 03-27256

Frank Amsalem,
Petitioner,

vs.

Sigal Amsalem,
Respondent.

A Case of Original Jurisdiction – Prohibition.

Frank Amsalem, in proper person.

Abramowitz & Associates, and Evan Abramowitz; Danelle Bernten,
Assistant State Attorney; Cindi Kamen, for Respondent.

Before WELLS, ROTHENBERG and SCALES, JJ.

PER CURIAM.

Petitioner Frank Amsalem seeks a writ from this Court prohibiting the trial court judge from presiding over any further proceedings in this case. Specifically, Petitioner challenges the trial court's denial of his motion to disqualify the trial court judge.

We review a trial court's denial of a motion for disqualification to determine whether the allegations appearing in the motion reflect that a reasonably prudent person would have a well-founded fear of not receiving a fair and impartial trial. MacKenzie v. Super Kids Bargain Store, Inc., 565 So. 2d 1332, 1334-35 (Fla. 1990). We do not review the truth or veracity of the motion's allegations; for the purposes of our review, we accept those allegations as true. Zuchel v. State, 824 So. 2d 1044, 1046 (Fla. 4th DCA 2002).

The allegations of Petitioner's motion, which the trial court must accept as true, reflect that a reasonably prudent person would have a well-founded fear of not receiving a fair and impartial trial.

We grant the writ of prohibition. We withhold formal issuance of the writ, confident that the trial judge will promptly issue an order of disqualification. We remand this cause for reassignment to a successor judge and for further proceedings consistent with this opinion.¹

¹ Given the settlement agreement reached between Petitioner and Respondent concluding the parties' dispute, we urge the successor judge to determine expediently whether to end this twelve-year old case.

We deny, as moot, Petitioner's motion to expedite.