

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

DONALD STEPHENS,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED.

CASE NO.: 1D06-0258

Opinion filed June 29, 2006.

Certiorari - Original Jurisdiction.

Jack A. Fleischman of Fleischman & Fleischman, P.A., West Palm Beach, for
Petitioner.

Charlie Crist, Attorney General, and Thomas H. Duffy, Assistant Attorney General,
Tallahassee, for Respondent.

PER CURIAM.

Because the trial court did not depart from the essential requirements of the law
in denying petitioner's request that his expert witness be allowed to attend petitioner's
examination by a neuropsychologist selected by the state, Stressman v. Lefler, 597 So.
2d 308 (Fla. 2d DCA 1992)(holding it is not a departure from the essential

requirements of law to deny request to have registered nurse attend an independent medical examination of the plaintiff), the petition for writ of certiorari is DENIED. The denial is without prejudice to petitioner raising below in a motion for protective order his argument that a videographer should be permitted to attend his examination by a neuropsychologist, after the examining doctor for the state is identified. See, e.g., Freeman v. Latherow, 722 So. 2d 885 (Fla. 2d DCA 1998), cited with approval by this court in Byrd v. Southern Prestressed Concrete, Inc., 31 Fla. L. Weekly D1215 (Fla. 1st DCA May 2, 2006); see also Broyles v. Reilly, 695 So. 2d 832, 834 (Fla. 2d DCA 1997)("[I]t would take an exceptional circumstance to permit anyone other than a videographer or court reporter and the plaintiff's attorney to be present on behalf of the plaintiff at a compulsory examination held pursuant to rule 1.360.").

KAHN, C.J., ERVIN, AND VAN NORTWICK, JJ., CONCUR.