

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2008

ALAN P. BROOKS,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

No. 4D07-3737

[January 23, 2008]

PER CURIAM.

We review the instant petition for writ of certiorari to determine whether the trial court departed from the essential requirements of law which resulted in irreparable harm. The trial court denied a motion to withdraw, filed by the counsel for the petitioner, for petitioner's failure to pay attorney's fees. We find that there was no departure and deny the petition.

The trial court's denial of the motion to withdraw resulted in irreparable harm, but there was no departure from the essential requirements of law. *See Fisher v. State*, 248 So. 2d 479 (Fla. 1971). Withdrawal may generally be granted when the case has not been set for trial, when the clients do not complain of delay, and when the clients do not fulfill their payment obligations. *Becker & Poliakoff v. King*, 642 So. 2d 821 (Fla. 4th DCA 1994). Here, the court denied further continuance and counsel's motion to withdraw because it was filed on the eve of trial. At this point in time, withdrawal would have hindered the ordinary functioning of the court as the trial date was set and there was not ample time for the client to procure new counsel. *Fisher*, 248 So. 2d at 486. We therefore find that there was no departure from the essential requirements of law. The petition for certiorari is denied.

SHAHOOD, C.J., and WARNER, J., concur.
FARMER, J., concurs in conclusion only.

* * *

Petition for writ of certiorari to the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Lucy Chernow Brown, Judge; L.T. Case No. 502007CF002762AXXXMB.

Eric H. Weingard of Eric H. Weingard, P.A., Plantation, for petitioner.

Bill McCollum, Attorney General, Tallahassee, and James J. Carney, Assistant Attorney General, West Palm Beach, for respondent.

Not final until disposition of timely filed motion for rehearing