

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED
IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

SHERRY GREENWOOD,)
)
 Petitioner,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Respondent.)
 _____)

Case No. 2D15-3553

Opinion filed October 14, 2015.

Petition for Writ of Prohibition to the Circuit Court for Pinellas County; Chris Helinger, Judge.

Wade M. Whidden of Whidden Law P.L., Tampa, for Petitioner.

Pamela Jo Bondi, Attorney General, Tallahassee, and Susan M. Shanahan, Assistant Attorney General, Tampa, for Respondent.

PER CURIAM.

Sherry Greenwood petitions this court for a writ prohibiting Circuit Court Judge Chris Helinger from presiding over her criminal prosecution in Pinellas County Circuit Court case number 14-11063-CF. We grant the petition.

Ms. Greenwood, through counsel, filed a motion to disqualify Judge Helinger from presiding over her case. At the beginning of a pretrial hearing, Judge

Helinger provided counsel with an order denying the motion to disqualify as legally insufficient. The order does not comment on the truth of the facts presented in the motion. However, during the hearing, Judge Helinger improperly attempted to refute facts that Ms. Greenwood alleged as a basis for believing that she would not receive a fair trial or sentencing before Judge Helinger. See Fla. R. Jud. Admin. 2.330(f); Bundy v. Rudd, 366 So. 2d 440, 442 (Fla. 1978) ("When a judge has looked beyond the mere legal sufficiency of a suggestion of prejudice and attempted to refute the charges of partiality, he has then exceeded the proper scope of his inquiry and on that basis alone established grounds for his disqualification."). Accordingly, we grant Ms. Greenwood's petition, we vacate the stay of the proceedings in case number 14-11063-CF previously imposed by this court, and we order the Chief Judge of the Sixth Judicial Circuit to assign a successor judge pursuant to rule 2.215(b)(4) to preside over the case.

Petition granted.

CASANUEVA, SILBERMAN, and SLEET, JJ., Concur.