

Third District Court of Appeal

State of Florida, July Term, A.D., 2009

Opinion filed October 21, 2009.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-1633

Lower Tribunal No. 08-22130

Christopher Colarusso,
Petitioner,

vs.

Brenna Myers Colarusso,
Respondent.

A Case of Original Jurisdiction – Prohibition.

Deborah Marks, for petitioner.

Rosenthal Rosenthal Rasco Kaplan and Liliana Loebel, for respondent.

Before WELLS, SHEPHERD and LAGOA, JJ.

PER CURIAM.

Petitioner Christopher Colarusso seeks a writ of prohibition preventing the trial judge from conducting further proceedings in the petitioner's dissolution of

marriage case. “A motion to recuse or disqualify a trial judge is legally sufficient when the alleged facts would create in a reasonably prudent person a well-founded fear of not receiving a fair and impartial trial.” Valdes-Fauli v. Valdes-Fauli, 903 So. 2d 214, 216 (Fla. 3d DCA 2005). A review of the verified motion to disqualify demonstrates that it is legally sufficient. The judge’s decidedly negative commentary concerning his personal opinion of the petitioner’s behavior, when viewed in the context of, and at this stage of, the dissolution proceeding, is sufficient to create in a reasonably prudent person a well-founded fear that he would not receive a fair hearing before this judge. See Miami Dade College v. Turnberry Inv., Inc., 979 So. 2d 1211 (Fla. 3d DCA 2008); Valdes-Fauli, 903 So. 2d at 214; Kopel v. Kopel, 832 So. 2d 108 (Fla. 3d DCA 2002); Royal Caribbean Cruises, Ltd. v. Doe, 767 So. 2d 626 (Fla. 3d DCA 2000); Tindle v. Tindle, 761 So. 2d 424 (Fla. 5th DCA 2000). Accordingly, we grant the petition. We are certain that it will be unnecessary to issue a formal writ.

Petition granted.