

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

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

PETER A. SHAPIRO,

Petitioner,

v.

Case No. 5D17-410

DAVINA CRAIG,

Respondent.

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Opinion filed February 24, 2017

Petition for Writ of Prohibition,  
Jessica J. Recksiedler, Judge.

Peter A. Shapiro, of The Law Offices of  
Peter A. Shapiro & Jonathan D. Wilson,  
Orlando, pro se.

No Appearance for Respondent.

WALLIS, J.

Peter Shapiro petitions this court for a writ of prohibition following the dismissal of his motion to disqualify the trial judge. Trial courts determine the legal sufficiency of a motion to disqualify by considering whether "the facts alleged (which must be taken as true) would prompt a reasonably prudent person to fear that he could not get a fair and impartial trial." Hayslip v. Douglas, 400 So. 2d 553, 556 (Fla. 4th DCA 1981) (citing Brewton v. Kelly, 166 So. 2d 834 (Fla. 2d DCA 1964)). The allegations cited in the motion

to disqualify concerned the trial judge's prior representation of the respondent, Davina Craig, as well as a prior case where Shapiro and the trial judge represented opposing parties in contentious litigation ten years ago. We find that Shapiro's allegations created a well-founded fear in his mind that he would not receive a trial by an impartial tribunal. See Livingston v. State, 441 So. 2d 1083 (Fla. 1983); Kisser v. Woodson, 549 So. 2d 802 (Fla. 5th DCA 1989). Therefore, we grant the petition for writ of prohibition.

PETITION GRANTED.

TORPY and EDWARDS, JJ., concur.