

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

JULIETTE NIEVES,

Petitioner,

v.

Case No. 5D20-1667

CHRISTOPHER GUTHRIE,

Respondent.

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Opinion filed September 11, 2020

Petition for Writ of Prohibition,  
Diana M. Tennis, Respondent Judge.

Scott E. Siverson, of Siverson Law Firm  
PLLC, Winter Garden, for Petitioner.

No Appearance for Respondent.

PER CURIAM.

Petitioner, Juliette Nieves, seeks a writ of prohibition following a trial court order denying her motion to disqualify the presiding judge in a post-judgment domestic proceeding. We grant the petition.<sup>1</sup>

A motion to disqualify is legally sufficient if the facts alleged—when taken as true and considered objectively—would reasonably cause a litigant to have a well-founded

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<sup>1</sup> The legal sufficiency of allegations in a motion to disqualify are reviewed under a *de novo* standard. Armstrong v. Harris, 773 So. 2d 7, 11 (Fla. 2000).

fear that he or she would not receive a fair trial or hearing before the presiding judge. See Shuler v. Green Mountain Ventures, Inc., 791 So. 2d 1213, 1215 (Fla. 5th DCA 2001); see also § 38.10, Fla. Stat. (2020); Fla. R. Jud. Admin. 2.160(d)(1).

We find that Petitioner has met the burden to establish an objectively reasonable, legally sufficient basis for disqualification. See Peterson v. Asklipious, 833 So. 2d 262, 264 (Fla. 4th DCA 2002); Zuchel v. State, 824 So. 2d 1044, 1046 (Fla. 4th DCA 2002). Accordingly, we grant the petition for writ of prohibition, quash the order under review, and remand this case for assignment to a different trial judge.

PETITION GRANTED; ORDER QUASHED; and REMANDED with directions.  
EDWARDS, HARRIS, and GROSSHANS, JJ., concur.