

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

JULY TERM 2012

GEORGE ZIMMERMAN,

Petitioner,

v.

Case No. 5D12-3198

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed August 29, 2012

Petition for Writ of Prohibition
Kenneth R. Lester, Jr., Respondent Judge.

Mark M. O'Mara, of O'Mara Law Group,
Orlando, and Donald R. West, of Don
West Law Group, P.A., Orlando for
Petitioner.

Pamela J. Bondi, Attorney General,
Tallahassee and Pamela J. Koller,
Assistant Attorney General, Daytona
Beach, for Respondent.

PER CURIAM.

George Zimmerman petitions for issuance of a writ of prohibition. This is the proper mechanism for challenging the denial of a motion to disqualify a trial judge. See, e.g., *Luskin v. State*, 717 So. 2d 1076, 1077 (Fla. 4th DCA 1998). Reviewing the matter de novo, see *R.M.C. v. D.C.*, 77 So. 3d 234, 236 (Fla. 1st DCA 2012), we grant the petition.

Florida Rule of Judicial Administration 2.330 requires a trial judge to grant a motion to disqualify without determining the accuracy of the allegations in the motion, so long as the motion is "legally sufficient." *R.M.C.*, 77 So. 3d at 236. "A motion is legally sufficient if it alleges facts that would create in a reasonably prudent person a well-founded fear of not receiving a fair and impartial trial." *Id.* (citing *MacKenzie v. Super Kids Bargain Store, Inc.*, 565 So. 2d 1332 (Fla. 1990)). Although many of the allegations in Zimmerman's motion, standing alone, do not meet the legal sufficiency test,¹ and while this is admittedly a close call, upon careful review we find that the allegations, taken together, meet the threshold test of legal sufficiency. Accordingly, we direct the trial judge to enter an order of disqualification which requests the chief circuit judge to appoint a successor judge.

PETITION GRANTED.

LAWSON and COHEN, JJ., concur.
EVANDER, J., dissents with opinion.

¹ For example, it is well-settled that "adverse judicial rulings do not constitute sufficient grounds to disqualify a judge." *K.H. v. Dep't of Health & Rehabilitative Servs.*, 527 So. 2d 230, 232 (Fla. 1st DCA 1988) (citations omitted).

EVANDER, J., dissenting.

I respectfully dissent. As the majority correctly observes, adverse rulings are not, in and of themselves, sufficient to require the granting of a motion to disqualify. Although the trial court's order clearly manifested an exceedingly strong belief by the trial judge that Zimmerman had "flouted" and "tried to manipulate" the system, I do not believe the order "crossed the line" so as to require the granting of his motion.