

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

JANUARY TERM 2013

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

KAREN MARY RAPHAEL,

Petitioner,

v.

Case No. 5D13-1304

GARY WAYNE RAPHAEL,

Respondent.

_____ /

Opinion filed May 24, 2013.

Petition for Writ of Prohibition,
Dennis Craig, Respondent Judge.

Brett Hartley of Brett Hartley, P.A.,
New Smyrna Beach, for Petitioner.

Paul E. Rice, Jr., of Rice Rose Law,
Daytona Beach, for Respondent.

PER CURIAM.

Karen Mary Raphael seeks a writ of prohibition after the Honorable Dennis Craig denied her motion to disqualify him from further proceedings in Ms. Raphael's dissolution of marriage case.

Ms. Raphael's petition sets forth that there is an obvious and apparent personal bias by Judge Craig against Mr. Hartley, her attorney, that dates to well before Judge Craig took the bench. Judge Craig has previously granted two motions to disqualify in unrelated cases in which Mr. Hartley was an attorney of record. In the instant case,

however, Judge Craig denied the motion to disqualify as being untimely and legally insufficient. Suffice it to say, we find that the motion was timely filed within ten days of Mr. Hartley discovering that Judge Craig was assigned to this case.

A judge's antipathy or hostility toward a party's counsel can provide grounds for disqualification. See Livingston v. State, 441 So. 2d 1083, 1087 (Fla. 1983); Hayslip v. Douglas, 400 So. 2d 553, 556–57 (Fla. 4th DCA 1981). Here, the petition clearly sets forth that there is hostility between Judge Craig and Mr. Hartley. In light of Judge Craig's prior orders disqualifying himself in two other cases where Mr. Hartley was an attorney of record, Judge Craig should have likewise granted Ms. Raphael's motion to disqualify. As a result, we grant the writ of prohibition, and Judge Craig is disqualified from hearing this case.

PETITION GRANTED.

PALMER, LAWSON and JACOBUS, JJ., concur.