

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2014

BERNARD MONTGOMERY,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

No. 4D14-3522

[November 19, 2014]

Petition for writ of prohibition to the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Barbara McCarthy, Judge; L.T. Case Nos. 09-17834 CF10A and 14-4739 CF10A.

Antony P. Ryan, Regional Counsel Office of Criminal Conflict and Civil Regional Counsel, Fourth District, and Melanie L. Casper, Assistant Regional Counsel, West Palm Beach, for petitioner.

Pamela Jo Bondi, Attorney General, Tallahassee, and Monique Rolla, Assistant Attorney General, for respondent.

PER CURIAM.

The defendant petitions for a writ of prohibition following the circuit judge's denial of the defendant's motion to disqualify the judge. Based on our review of the petition and motion, we issued an order to the state to show cause why we should not grant the petition. The state candidly has responded that it can find no such cause. We conclude the petition has merit and grant the petition. *See Gore v. State*, 964 So. 2d 1257, 1268 (Fla. 2007) ("The standard for determining the legal sufficiency of a motion to disqualify is whether the facts alleged, which must be assumed to be true, would cause the movant to have a well-founded fear that he or she will not receive a fair trial at the hands of that judge."). The defendant's cases shall be re-assigned to another circuit judge.

Petition granted.

TAYLOR, GERBER and FORST, JJ., concur.

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Not final until disposition of timely filed motion for rehearing.