NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED

	IN THE DISTRICT COURT OF APPEAL
	OF FLORIDA
	SECOND DISTRICT
PETER L. BRINSON, Appellant, v. STATE OF FLORIDA,))))) CASE NO. 2D03-5110)
Appellee.)))

Opinion filed May 14, 2004.

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Pinellas County; Brandt C. Downey, III, Judge.

PER CURIAM.

Peter Brinson challenges an order of the trial court summarily denying his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. Brinson alleges, and the State concedes, that the order on appeal is void because the trial judge who entered the order had previously entered an order recusing himself in the same trial court case. We agree that the prior order of recusal renders the present order void. See Thomas v. State, 756 So. 2d 217 (Fla. 4th DCA 2000).

Accordingly, we reverse the order summarily denying appellant's rule 3.850 motion and remand to the trial court for a newly assigned trial judge to consider the motion on its merits. <u>Id.</u>

Reversed and remanded, with directions.

NORTHCUTT, KELLY, and VILLANTI, JJ., Concur.