

Third District Court of Appeal

State of Florida, January Term, A.D. 2012

Opinion filed November 9, 2012.

No. 3D12-2936
Lower Tribunal No. F12-19854

The State of Florida,
Petitioner,

vs.

Emin Rosales Ramirez,
Respondent.

Original Jurisdiction Proceeding—Prohibition.

Pamela Jo Bondi, Attorney General, and Natalia Costea, Assistant Attorney General, for petitioner.

Edward Martinez, for respondent.

Before SUAREZ, CORTIÑAS and FERNANDEZ, JJ.

PER CURIAM.

Because the trial judge should have disqualified himself, we grant the petition for writ of prohibition. We conclude that the motion for disqualification

was legally sufficient, and that the trial judge's comments were such that the facts alleged would place a reasonably prudent person in fear of not receiving a fair and impartial trial. See Livingston v. State, 441 So. 2d 1083, 1087 (Fla. 1983). Once a basis for disqualification has been established, prohibition is both an appropriate and necessary remedy. Brown v. Rowe, 96 Fla. 289, 118 So. 9 (1928). Accordingly, the writ of prohibition must issue and we direct the trial judge to disqualify himself in all proceedings presently pending in lower court case number F12-19854. We therefore grant the petition for writ of prohibition, but being confident that the trial judge will withdraw, we need not formally issue the writ.

Petition granted.