

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

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

RACHEL WILSON and S.B., A CHILD,

Petitioners,

v.

Case No. 5D17-3373

DEPARTMENT OF CHILDREN AND FAMILIES,

Respondent.

Opinion filed November 9, 2017

Petition for Writ of Prohibition,
Charles G. Crawford, Respondent Judge.

Lindsey M. Sharp, of Lindsey M. Sharp,
P.A., Indiatlantic, for Petitioners.

Kelley Schaeffer, Children's Legal
Services, Bradenton, for Respondent.

WALLIS, J.

Petitioners seek a writ of prohibition disqualifying the judge presiding over their dependency proceedings. The trial court initially denied Petitioners' motions to recuse or disqualify the judge as legally insufficient. Respondent provides no cause for denying the petition. We find that the allegations in both motions to disqualify, which must be taken as true, would prompt a reasonable person to fear that he or she could not receive a fair and impartial hearing or trial in front of the current judge. See Shapiro v. Craig, 210 So. 3d

782, 782 (Fla. 5th DCA 2017); see also Mangina v. Cornelius, 462 So. 2d 602, 602 (Fla. 5th DCA 1985) ("Where the trial judge refuses to disqualify himself, prohibition is the proper remedy" (citing Bundy v. Rudd, 366 So. 2d 440 (Fla. 1978))). Therefore, we grant the petition.

PETITION GRANTED.

SAWAYA and EISNAUGLE, JJ., concur.