

# Third District Court of Appeal

State of Florida, January Term, A.D. 2008

Opinion filed May 21, 2008.

Not final until disposition of timely filed motion for rehearing.

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No. 3D08-1167

Lower Tribunal Nos. 04-23220; 04-5205

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**Michael Hernandez,**  
Petitioner,

vs.

**The State of Florida,**  
Respondent.

A Case of Original Jurisdiction – Prohibition.

Arnstein & Lehr, and Richard L. Rosenbaum, for petitioner.

Bill McCollum, Attorney General, and Linda Katz, Assistant Attorney General, for respondent.

Before GREEN, SHEPHERD, and CORTIÑAS, JJ.

PER CURIAM.

On Motion for Clarification

We grant the State of Florida's Motion for Clarification, withdraw our order issued May 16, 2008, and substitute the following in its stead.

Petitioner, Michael Hernandez, seeks a writ of prohibition based on the trial judge's summary refusal to disqualify himself. Because we find that the trial judge's complained of comments did not rise to the level necessary for disqualification, we deny the petition with prejudice.