

# Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed October 8, 2009.

Not final until disposition of timely filed motion for rehearing.

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No. 3D09-2453

Lower Tribunal No. 05-13504

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**Richard Plaza,**  
Petitioner,

vs.

**Marie Plaza,**  
Respondent.

A Case of Original Jurisdiction – Prohibition.

Kenneth M. Kaplan, for petitioner.

Brandon A. Rotbart, for respondent.

Before SHEPHERD, SUAREZ, and ROTHENBERG, JJ.

ROTHENBERG, J.

After review of Richard Plaza's petition for writ of prohibition and Marie Plaza's subsequently filed motion to relinquish jurisdiction and lift the stay entered by this Court, it is evident that the parties misunderstood the stay issued by this Court on September 9, 2009. The stay was directed towards the order on appeal, not the proceedings below. The effect of the stay should have resulted in the immediate restoration of the petitioner's custody and visitation with his children pending appellate review of the trial court's order. We, therefore vacate this Court's order dated September 9, 2009.

In this case, the trial judge issued an order recusing himself on August 4, 2009, and subsequently issued the order on appeal on August 10, 2009. As a matter of law, the trial judge had no legal authority to enter the instant order once he had recused himself. See Lake v. Lake, 14 So. 3d 284, 284 (Fla. 3d DCA 2009) (reversing an order issued by the same judge that issued the instant order after the judge had recused himself, finding that "[o]nce the trial judge recused himself, he had no further authority to enter orders"); State ex. rel. Cobb v. Bailey, 349 So. 2d 849 (Fla. 1st DCA 1977) (holding that the judge's recusal order effectively deprived that judge of authority to preside over the contempt proceedings). Accordingly, we grant the petition, quash the trial court's order of August 10, 2009, and order that the father's visitation and custody rights be restored forthwith. See Bolt v. Smith, 594 So. 2d 864, 864 (Fla. 5th DCA 1992) ("Florida case law is

well settled that once a trial judge has recused himself, further orders of the recused judge are void and have no effect.”).

This opinion shall take effect immediately, notwithstanding the filing of any motions for rehearing or rehearing en banc.

Petition granted, order quashed, and case remanded with instructions.