

# Third District Court of Appeal

State of Florida, January Term, A.D. 2010

Opinion filed June 22, 2010.

Not final until disposition of timely filed motion for rehearing.

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No. 3D10-1607

Lower Tribunal No. 09-15418 DOO3

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**A.B.,**  
Petitioner,

vs.

**Department of Children and Family Services and Guardian Ad  
Litem Program,**  
Respondents.

A Case of Original Jurisdiction – Prohibition.

Joseph P. George, Jr., Criminal Conflict and Civil Regional Counsel,  
Richard F. Joyce, Chief Assistant Regional Counsel, and Michael Nixon, Assistant  
Regional Counsel, for petitioner.

Karla Perkins, Department of Children and Family Services; Hillary S.  
Kambour, Guardian Ad Litem Program.

Before SHEPHERD, SUAREZ, and SALTER, JJ.

SUAREZ, J.

A.B., the father of A.B., seeks a Writ of Prohibition to prevent the trial judge from presiding over an action in which the State of Florida, Department of Children and Families, seeks to adjudicate the child, A.B., dependent as against her father.

The factual basis for the dependency action includes, in part, certain conduct by A.B., which was witnessed by the trial judge in open court prior to the filing of the dependency action. As such, A.B.'s Petition is well taken. See Code of Judicial Conduct Canon 3E(1)(a) (“A judge shall disqualify himself . . . in a proceeding in which the judge’s impartiality might reasonably be questioned, including . . . instances where . . . the judge has . . . personal knowledge of disputed evidentiary facts concerning the proceeding.”); Jarp v. Jarp, 919 So. 2d 614 (Fla. 3d DCA 2006).

This opinion shall take effect immediately notwithstanding the filing of any motion for rehearing.

Petition for Writ of Prohibition granted.