

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

JULY TERM 2010

CALVIN KLUCK,

Petitioner,

v.

Case No. 5D10-373

EVELYN CLONINGER,

Respondent.

_____ /

Opinion filed July 23, 2010.

Petition for Certiorari Review of Order
from the Circuit Court for Seminole County,
Kenneth R. Lester, Jr., Judge.

Janet L. Schmidt, Alexandria,
Virginia, for Petitioner.

David C. Brennan of the Brennan Law
Firm, Orlando, for Respondent.

PER CURIAM.

The petitioner, Calvin Kluck, seeks a writ of certiorari directed to an order of the trial court that disqualified his attorney. We grant the petition and quash the order.

The trial court did not have jurisdiction to rule on the motion to disqualify. The motion to disqualify was heard after Kluck had appealed a final "Order Admitting Will to Probate and Appointing Personal Representative (self-proved)." The trial court lost jurisdiction when the notice of appeal was filed, and the order of disqualification entered

during the pendency of the appeal was a nullity. See Holmes Reg'l Med. Ctr., Inc. v. Rose, 721 So. 2d 764 (Fla. 5th DCA 1988).

Therefore, the petition for certiorari is granted, and the January 4, 2010, order disqualifying petitioner's attorney is quashed.

PETITION GRANTED, ORDER OF DISQUALIFICATION QUASHED.

PALMER, COHEN and JACOBUS, JJ., concur.