

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff

Case No: 98-5739CF10A

V.

ERNESTO BRHRENS,
Defendant.

DEFENDANT'S MOTION SEEKING AN ORDER FROM THE COURT DIRECTING
THE CLERK TO REASSIGN THE CASE

COMES NOW, the Defendant, Ernesto Behrens, *pro se*, and respectfully moves this Honorable Court for an order from this Court directing the Clerk to reassign the case pursuant to Rule 2.330(j) of the Florida Rules of Judicial Administration.

The Defendant in furtherance thereof, shows as follows:

- 1.. On June 29, 2020, the Defendant mailed/served on Judge Andrew L. Siegel a motion for disqualification of judge, referencing the above-styled Lower Tribunal Case Number.
- 2.. However, the Clerk's docket reflects this motion as filed on July 6, 2020.

3.. The motion concerned Judge Siegel's actions stemming from:

- a. The Judge's familial relationship with the former Assistant State Attorney and future key witness in this case, Mr. Dennis E. Siegel; and
- b. Judge Andrew L. Siegel's predisposed demeanor toward this case, reflecting bias in favor of the State, and causing the Defendant to fear that he will not receive a fair post-conviction hearing.

4.. As there was no ruling on the motion for disqualification within the thirty-day period provided by Florida Rule of Judicial Administration 2.330(j), on today's day, August 6, 2020, the Defendant is respectfully mailing/serving his motion for an order directing the Clerk to reassign the case.

5.. Rule 2.330(j) of the Florida Rules of Judicial Administration provides, in pertinent part:

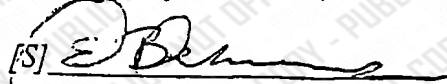
" The judge shall rule on a motion to disqualify immediately, but no later than 30 days after the service of the motion as set forth in subdivision (c). ***If not ruled on within 30 days of service, the motion shall be deemed granted and the moving party may seek an order from the court directing the clerk to reassign the case.***" (Emphasis added).

6.. Therefore, rule 2.330(j) entitles the Defendant to a ruling within thirty days and, *failing that, to an order directing the clerk to reassign the case.* Compare *Schisler v. State*, 958 So.2d 503 (Fla. 3d DCA 2007) (granting a mandamus petition to

direct the trial judge to quash his order denying a motion to disqualify the judge, where the judge did not rule within thirty days after service of the motion, even though the ruling was only one day late and petitioner's counsel acquiesced in setting a hearing on the motion outside the thirty-day time frame); *Harrison v. Johnson*, 934 So.2d 563 (Fla. 1st DCA 2006) (stating that, to the extent a movant seeks to compel a ruling by the circuit court on his motion to reassign, mandamus is the proper remedy).

WHEREFORE, the Defendant prays this Honorable Court issues an order directing the Clerk to reassign this case, and grant it as it relates to this pending criminal case.

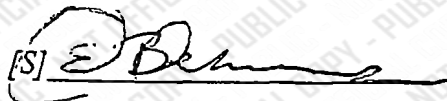
Respectfully Submitted,

[S]

Ernesto Behrens, DC# 732564

OATH

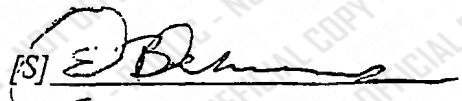
UNDER PENALTIES OF PERJURY and administrative sanctions from the Department of Corrections, including forfeiture of gain time if this Motion is found to be frivolous or made in bad faith. I certify that I understand the contents of the foregoing Motion, that the facts contained in the Motion are true and correct, and that I have a reasonable belief that the Motion is timely filed. I certify that this Motion does not duplicate previous motions that have been disposed of by the court. I certify that I understand English and have read the forgoing Motion or had the Motion read to me. **I further certify that this Motion and its statements are made in good faith.**

A handwritten signature in black ink, appearing to read "E. Behrens", with a horizontal line underneath it.

Ernesto Behrens, DC# 732564

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing Motion was mailed via U.S. first class mail to: State Attorney's Office, Michael J. Satz, Postconviction Unit, 201 S.E. Sixth Street. Fort Lauderdale, Florida 33301; to the Honorable Chief Judge Jack Tuter and to **the subject Judge Andrew L. Siegel's Chamber** at Broward County Main Courthouse, 201 S.E. Sixth Street. Fort Lauderdale, Florida 33301 (*in compliance with Florida Rule of Civil Procedure 1.080*). On this 6 day of August, 2020.

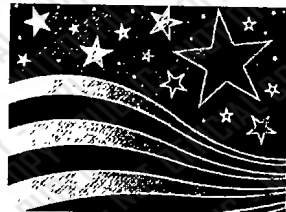
A handwritten signature in black ink, appearing to read "E. Behrens", with a horizontal line underneath it.

Ernesto Behrens, DC# 732564

Martin Correctional Institution
1150 S.W. Allapattah Road
Indiantown, Florida 34956

Ernesto Behrens OC# 73256
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Judge Andrew Siegel
Broward County Courthouse
201 SE 6th Street, NW 7880
Fort Lauderdale, Florida 33301

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