

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT, 110 SOUTH TAMARIND AVENUE, WEST PALM BEACH, FL 33401

November 03, 2020

CASE NO.: 4D20-1851

L.T. No.: 98-5739CF10A

ERNESTO BEHRENS

v. STATE OF FLORIDA

Appellant / Petitioner(s)

Appellee / Respondent(s)

BY ORDER OF THE COURT:

ORDERED that the August 14, 2020 petition for writ of mandamus is granted. Petitioner served the motion to recuse on the trial judge on June 29, 2020. Fla. R. Jud. Admin. 2.516(b)(2); *see also McCray v. State*, 151 So. 3d 449 (Fla. 1st DCA 2014); *Berube v. State*, 978 So. 2d 893 (Fla. 2d DCA 2008). Because service was by mail, the judge had until August 3, 2020 to rule on the motion. Fla. R. Jud. Admin. 2.514(b); *McCray*, 151 So. 3d at 450. By failing to timely rule, the motion is deemed granted. Fla. R. Jud. Admin. 2.330(j). The August 4, 2020 order is quashed, and on remand the clerk shall reassign the case.

LEVINE, C.J., GERBER and ARTAU, JJ., concur.

Served:

cc: Attorney General-W.P.B.
State Attorney-Broward

Paul Patti
Clerk Broward

Ernesto Behrens *W*
Hon. Andrew L. Siegel

kh



LONN WEISSBLUM, Clerk
Fourth District Court of Appeal

