

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

ERIC VINCENT BUCKNER,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

CASE NO.: 2019-CA-14709-O

ORDER DISMISSING WITHOUT PREJUDICE
PETITION FOR WRIT OF MANDAMUS

THIS MATTER came before the Court for consideration of the Petition for Writ of Mandamus, filed on December 6, 2019. The Court finds as follows:

The instant Petition seeks the disqualification of the Honorable Keith F. White, the presiding judge in Case No. 2019-CF-788-A-O, in which Petitioner has been charged with burglary of a structure and other offenses, and in which Petitioner is representing himself. According to the Petition, Petitioner has filed “at least” four motions to disqualify Judge White, but those motions were all “improperly denied.”

Under Florida law, the proper procedural vehicle for seeking review of the denial of a motion to disqualify is a petition for writ of prohibition. *See Wal-Mart Stores, Inc. v. Carter*, 768 So. 2d 21, 21-22 (Fla. 1st DCA 2000) (“The traditional remedy for interlocutory review of an order denying judicial disqualification is prohibition.”).

Additionally, since the Petition is seeking review of disqualification orders entered in a Circuit Court case, the Petition should be filed in the next higher reviewing court, not this Court. *See State ex rel. Bettendorf v. Martin County Environmental Control Hearing Bd.*,

564 So. 2d 1227, 1228 (Fla. 4th DCA 1990) (en banc) (“Special writ jurisdiction follows the appellate process.”). The proper reviewing Court in the instant case is the Fifth District Court of Appeal.

Accordingly, it is **ORDERED** and **ADJUDGED** that the Petition for Writ of Mandamus is **DISMISSED WITHOUT PREJUDICE** to Petitioner filing a petition for writ of prohibition in the Fifth District Court of Appeal, and that the above-styled case shall be **CLOSED** by the Clerk.

DONE and **ORDERED** in Chambers, in Orlando, Orange County, Florida, the _____ day of _____, 2019.

DIANA M. TENNIS
Presiding Circuit Judge

BLACKWELL and CALDERON, J.J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order was furnished on this _____ day of _____, 2019 to: Eric Vincent Buckner, #19001700 H4D, P.O. Box 4970, Orlando, FL 32802; Office of the State Attorney, 415 N. Orange Ave., Orlando, FL 32801.

Judicial Assistant