

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

JULY TERM 2009

MICHAEL JENSEN,

Petitioner,

v.

CASE NO. 5D09-3109

TRACY JENSEN,

Respondent.

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Opinion filed November 6, 2009

Petition for Writ of Habeas Corpus,
A Case of Original Jurisdiction.

Carlton Pierce, of Carlton Pierce, P.A.,
Orlando, for Petitioner.

Debra S. Johnson, of Debra S. Johnson, P.A.,
Orlando, for Respondent.

PER CURIAM.

Michael Jensen petitioned this court for habeas corpus relief after he was found in direct criminal contempt by the trial court and sentenced to thirty days of incarceration. Mr. Jensen maintained in his petition that the evidence did not support a finding of contempt, and that the trial court failed to comply with Florida Rule of Criminal Procedure 3.830. We agreed and ordered his immediate release from custody indicating that this opinion would follow.

The facts are uncomplicated. At the conclusion of a hearing held in the dissolution proceedings below, the trial judge announced that he was holding Mr.

Jensen in contempt of court for being "generally uncooperative and disrespectful." The court immediately sentenced him to thirty days incarceration. A transcript of the hearing reveals, however, that the judge neither gave Mr. Jensen an opportunity to show cause why he should not be found guilty of contempt, nor a chance to present evidence of excusing or mitigating circumstances before being held in contempt and sentenced. See Fla. R. Crim. P. 3.830. Additionally, we note that the basis for the contempt determination was insufficient to support such a finding.

PETITION GRANTED.

MONACO, C.J., TORPY and JACOBUS, JJ., concur.