

DZIUBA
RIGHT TO
CROSS-EX
HEARING

SCANNED

IN THE COURT OF APPEALS
EASTERN DISTRICT
STATE OF MISSOURI

DAWN DZIUBA,
Relator

v.

JUDGE COLLEEN DOLAN,
Respondent

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ED 103219

FILED
JUL 23 2015

LAURA ROY
CLERK, MISSOURI COURT OF APPEALS
EASTERN DISTRICT

WRIT SUMMARY

Relator: Dawn Dziuba

Respondent: Judge Colleen Dolan

Nature of Underlying Action: Relator is a defendant in the criminal cause of State of Missouri v. Dawn Dziuba, Cause No. 14SL-CRO5229. Respondent is Judge Colleen Dolan, judge of the Circuit Court of St. Louis County.

Action of Respondent Being Challenged: Judge Dolan's failure to comply with the requirements of RSMo § 552.020.7 to hold a hearing where a report is contested and to have the defendant exercise her right to cross-examine witnesses and present evidence.

Relief Requested by Relator: Relator is entitled to an order of mandamus ordering Judge Dolan to hold a competency hearing pursuant to RSMo § 552.020.7 and to order Judge Dolan to permit Defendant to exercise her right to cross-examine the examiner because the examiner's report was contested by defendant's timely objection, in that RSMo § 552.020.7 provides that, "If any such report is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be received into evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to summon and to cross examine the examiner who rendered such opinion and to offer evidence upon the issue." Relator is entitled to a writ of prohibition prohibiting Judge Dolan from proceeding further until Judge Dolan holds a competency hearing pursuant to RSMo § 552.020.7.