

FAX COVER SHEET

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TO: CARRIE COOPER, CLERK FOR THE HONORABLE KIMBERLY COON,
PROBATE DIVISION OF ST. LOUIS COUNTY

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CONFIRMATION - COURT PHONE #: (314) 615-2629

FROM: DAWN DZIUBA, MO BAR #54174

Cause No. 16SL-PRO2645

PHONE #: (314) 877-0676, or 877-0674

FILED

OCT 11 2016

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

IN THE PROBATE COURT OF ST. LOUIS COUNTY

STATE OF MISSOURI

MARK STRINGER DIRECTOR OF THE)
DEPARTMENT OF MENTAL HEALTH,)
Petitioner)
v.)
DAWN DZIUBA,)
Respondent)

Cause No. 16SL-PR02645

ENTRY OF APPEARANCE AND MOTION FOR RELEASE ON RECOGNIZANCE

I. Respondent hereby gives notice to the court of her entry of appearance as a first chair attorney of record in her case, with any other counsel constituting hybrid representation with limited scope, and requests to be released on her own recognizance.

A. In support of this motion, Respondent states:

- 1. Respondent is proceeding as first chair attorney pro-se with hybrid representation on her own case and as such will be the final decision maker on any issues related to her case. Any additional counsel, if necessary, will be part of a hybrid representation with limited scope.
2. Respondent has been a licensed attorney, and became licensed by the Missouri Bar after passing the Missouri Bar in February 2003, Missouri Bar number 54174.
3. Respondent earned her juris doctorate from University of Illinois, Urbana-Champaign in 2002. Defendant earned her LLM in Intellectual Property and Technology Law from Washington University in St. Louis in 2010.
4. Respondent is qualified to make a knowing, intelligent, and voluntary waiver of counsel or to request to proceed as an attorney pro-se with hybrid representation.
5. Respondent is asserting that she has capacity to make all of her own legal decisions and is challenging any guardianship or conservatorship petitions.
6. Respondent needs access to pro-se legal resources, including a law library, electronic legal research resources, word processing, printing, copying, faxing and other appropriate resources for pro-se representation. Respondent needs access to such legal resources in order to be professional in her presentation. Respondent also needs to be able to make confidential phone calls relevant to her legal representation, send faxes, to utilize subpoenas and mail as appropriate.
7. Respondent has requested access to resources to work on her case full-time or approximately forty (40) hours per week.
8. Respondent needs to be released on her own recognizance so she can have access to resources and perform functions relevant to her legal representation and use of judicial process. The St. Louis Metropolitan Psychiatric Center has been unable to meet all of these needs; Respondent's needs will best be met if she is released on her own recognizance.
9. The Respondent is legally required to be released under the current legal circumstances pursuant to RSMo. §552.020.11(6), which in relevant part states:
'If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that the accused will be mentally fit to proceed in the reasonably foreseeable future,

the court shall dismiss the charges without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475, in which case those sections and no others will be applicable...”

10. Applying RSMo. §552.020.11(6) to the instant case: the Respondent was found permanently incapable of standing trial (PIST), per RSMo. §552.020.11(6), on March 25, 2016, and proceedings have been filed under chapter 475, so the Respondent is legally required to be discharged under the statute because these current legal circumstances meet the statutory pre-conditions of (a) being found PIST and (b) proceedings filed under chapter 632 or 475, so the legal requirement of (c) “and the accused shall be discharged” applies to require the court to discharge the Respondent.

11. Responding is requesting both

(a) to be discharged pursuant to RSMo. §552.020.11(6)

(b) to be released on her own recognizance so she can have access to resources and perform functions relevant to her legal representation and use of judicial process.

12. Respondent continues to assert her claim that she is innocent of all charges, that she is competent, and that she has the legal capacity to make all of her own decisions, even as she is requesting to be discharged under the statute and released on her own recognizance.

B. Wherefore defendant requests:

1. That the Court accepts Respondent’s Entry of Appearance.

2. That the Court permit the Respondent to proceed as first chair attorney pro se, and accept any additional counsel as part of a hybrid representation with judicial notice of the limited scope of such representation.

3. That this Court discharge the Respondent.

4. That this Court release the Respondent on her own recognizance.

5. That the Court grant Respondent access to appropriate legal resources, including but not limited to, a law library, electronic legal research resources, word processing, printing, copying, faxing, the ability to make confidential phone calls, to send faxes, to subpoena witnesses, and other appropriate resources for her legal needs of pro-se hybrid representation on her case and use of judicial process.

6. That this Court order any facility where defendant is held to grant defendant access to such legal resources for at least forty (40) hours per week, as well as order the facility to permit Respondent to be able to: make confidential phone calls, send faxes to the court, make copies, subpoena witnesses, use electronic legal research resources, use word processing, and permit Respondent to perform functions relevant to her legal representation and use of judicial process.

7. That the Court dismiss the guardianship petition and find that the Respondent has the capacity to make all of her own decisions.

8. Any other relief this Court deems proper.

Respectfully submitted,


Dawn Dziuba Mo Bar #54174

CERTIFICATE OF SERVICE

This motion was served this 10 day of October, 2016 by fax.