

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI EX REL.
CHRIS KOSTER,**

RELATOR,

v.

**THE HONORABLE CYNTHIA SUTER,
ASSOCIATE CIRCUIT JUDGE OF
RANDOLPH COUNTY AND PEGGY BOOTS,
CIRCUIT CLERK RANDOLPH COUNTY
CIRCUIT COURT,**

RESPONDENTS.

DOCKET NUMBER WD77163 Consolidated with WD77188
DATE: July 29, 2014

Appeal From:

Randolph County Circuit Court
The Honorable Cynthia Suter, Judge

Appellate Judges:

Writ Division: Gary D. Witt, Presiding Judge, Thomas H. Newton, Judge and Cynthia L. Martin, Judge

Attorneys:

Martha E. Ravenhill and Gregory M. Goodwin, Jefferson City, MO, for relator.

Chelsea R. Mitchell, Columbia, MO, for Respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

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No. WD77163 Consolidated with WD77188

Randolph County

Before Writ Division: Gary D. Witt, Presiding Judge, Thomas H. Newton, Judge and Cynthia L. Martin, Judge

This cause arises from a petition for writ of certiorari filed by Relator State of Missouri ("State") to review Respondent Honorable Cynthia Suter's ("Judge Suter") entry of a writ of habeas corpus to Joseph Thomas Bowen ("Bowen"), and a petition for writ of prohibition to review Judge Suter's accompanying dismissal of the State's petition to commit Bowen as a sexually violent predator ("SVP"). We issued a writ of certiorari and a preliminary writ of prohibition and consolidated the writs for consideration. We quash the writ of habeas corpus and make our preliminary writ of prohibition absolute.

Writ Division holds:

Under the plain language of § 559.115.3 (RSMo 2006), Bowen failed to establish that his incarceration was illegal or that there was any jurisdictional defect or lack of statutory authority to detain him so as to warrant relief under either a writ of habeas corpus or a motion to dismiss. The basis of Bowen's claim was that in 2009, following his participation in the Sex Offender Assessment Unit while in prison, the court did not provide him a required hearing prior to the denial of probation. He argued accordingly that because his continued confinement was improper, the trial court did not have the jurisdiction or statutory authority to try him as an SVP. Because, pursuant to the statute, Bowen was not entitled to a hearing prior to the denial of probation, he failed to establish that his incarceration was illegal and his claim fails as a matter of law. The trial court's writ of habeas corpus is quashed and our preliminary writ of prohibition prohibiting the probate court from dismissing the SVP action in reliance on the writ of habeas corpus is made absolute.

Opinion by Gary D. Witt, Judge

July 29, 2014

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