

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

AROOSTOOK METTE-NJULDNIR,

Appellant.

DOCKET NUMBER WD77257

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: July 21, 2015

APPEAL FROM

The Circuit Court of Callaway County, Missouri
The Honorable Kevin M.J. Crane, Judge

JUDGES

Special Division: Hardwick, P.J., and Mitchell and Martin, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
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Jefferson City, MO

Attorneys for Respondent,

Margaret M. Johnston, Assistant Public Defender
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Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
) **Respondent,**)
v.) **OPINION FILED:**
) **July 21, 2015**
AROOSTOOK METTE-NJULDNIR,)
)
) **Appellant.**)

WD77257

Callaway County

Before Special Division Judges: Lisa White Hardwick, Presiding Judge, and Karen King Mitchell and Cynthia L. Martin, Judges

Aroostook Mette-Njuldnr appeals his conviction of second-degree assault, entered following a jury trial, for which he was sentenced to three years' imprisonment. Mette-Njuldnr raises two points on appeal: (1) the trial court erred in failing to hold a hearing to determine whether Mette-Njuldnr was competent to be tried and sentenced; and (2) the trial court erred in failing to sua sponte declare a mistrial because Mette-Njuldnr's testimony suggested that he lacked mental fitness. Because the record supported the trial court's determination that Mette-Njuldnr was competent to be tried and sentenced, we find no error and affirm.

AFFIRMED.

Special Division holds:

1. The fact that a mental examination has been ordered under § 552.020 does not automatically require a court to sua sponte hold a hearing to determine competence. Rather, a hearing on competency is required only when the psychiatric report is contested. Thus, there is no error in failing to have a competency hearing when a report is not "contested."
2. In order to "contest" a mental evaluation report, a party must first controvert the report's ultimate conclusion regarding mental competence by challenging either the competency

of the examiner or the validity of the procedures used. Under § 552.020.7, a proper “contest” may come from either the state, the accused, or his counsel.

3. Here, because Mette-Njuldnr either did not contest the ultimate findings of the reports or withdrew valid contests to the reports, he was not entitled to a hearing, and the trial court committed no error, plain or otherwise.
4. Under § 552.020.12, “[i]f the question of the accused’s mental fitness to proceed was raised after a jury was impaneled to try the issues raised by a plea of not guilty *and* the court determines that the accused lacks the mental fitness to proceed or orders the accused committed for an examination . . . , the court *may* declare a mistrial.”
5. Here, to the extent Mette-Njuldnr’s mental fitness was called into question during trial, the trial court satisfied its concerns by ordering another mental evaluation before sentencing to determine the issue. That evaluation determined not only that Mette-Njuldnr was competent to proceed with sentencing but also that he had been competent throughout his trial. Accordingly, the court found that Mette-Njuldnr was mentally fit to proceed with sentencing. Because of this finding, Mette-Njuldnr has failed to demonstrate one of the prerequisites to the court’s discretionary decision to grant a mistrial under § 552.020.12: that “the court determines that the accused lacks the mental fitness to proceed or orders the accused committed.”
6. A trial court’s decision not to grant a mistrial *sua sponte* will not be reversed as plain error absent a clear showing of a manifest abuse of discretion, which resulted in manifest injustice or a miscarriage of justice.
7. Here, there is no manifest injustice present. The trial court ordered four separate mental evaluations during the pendency of the case. Three of the four declared Mette-Njuldnr competent. The only evaluation declaring him incompetent was the very first evaluation, conducted over three years before the sentencing proceeding. Every evaluation after that declared him to be competent. Mette-Njuldnr, himself, asserted his competence, as did his trial counsel. Accordingly, the trial court did not commit plain error in not exercising its discretion to declare a mistrial on the basis of Mette-Njuldnr’s alleged incompetence.

Opinion by: Karen King Mitchell, Judge

July 21, 2015

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