

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI ex rel.)	No. ED94968
WENDY WEXLER HORN,)	
Prosecuting Attorney,)	
St. Francois, County, Missouri, Relator,)	Writ of Prohibition
)	Circuit Court of St. Francois County
vs.)	
)	
THE HONORABLE THOMAS RAY,)	
Circuit Court, St. Francois County,)	
Twenty-Fourth Judicial Circuit)	
Associate Division III, Respondent.)	Filed: September 21, 2010

The relator, the prosecuting attorney for St. Francois County (“the State”), petitioned this Court for a writ of prohibition, requesting that the respondent, the Honorable Thomas Ray, be restrained from denying the State’s motion to disqualify counsel Carl Kinsky from simultaneously representing both the defendant and the alleged victim (collectively “the clients”) in the State’s prosecution of the defendant for second-degree domestic assault.

PRELIMINARY ORDER IN PROHIBITION MADE PERMANENT WITH DIRECTIONS TO GRANT THE STATE’S MOTION

WRIT DIVISION TWO HOLDS: Dual representation of a defendant and the victim in the State’s prosecution of the defendant for the alleged crime against the victim is improper. We hold that the respondent abused his discretion in failing to disqualify counsel. The trial court is directed to grant the State’s motion to disqualify counsel. Counsel shall not represent either the defendant or the victim. Our preliminary writ in prohibition is made permanent.

Opinion by: Lawrence E. Mooney, P.J. Glenn A. Norton, J., dissents in separate opinion , Gary M. Gaertner, Jr., concurs with majority opinion.

Attorney for Relator: Joseph Lanter

Attorney for Respondent: Carl D. Kinsky

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.