

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

#### WRIT DIVISION SIX

STATE OF MISSOURI ex rel.	)	No. ED95387
JEFFREY THURMAN, Relator,	)	
v.	)	Writ of Prohibition
	)	
HONORABLE KENNETH W. PRATTE,	)	Case No. 07D7-CR00121
Judge of the Circuit Court, 24 <sup>th</sup> Judicial	)	
Circuit, Division II, Farmington, Missouri,	)	
Respondent.	)	FILED: November 9, 2010

#### OPINION SUMMARY

Jeffrey Thurman (“Relator”) filed a petition for a writ of prohibition or in the alternative, a writ of mandamus to prohibit the Honorable Kenneth W. Pratte (“Respondent”) from ordering that Relator submit to a mental examination by the State. The issue before this court is whether Respondent has the authority to order a mental examination of Relator regarding his mental state at the time of the alleged criminal conduct after Relator disclosed an expert report concluding that he is mentally retarded. We issued a preliminary writ in prohibition. We now hold that Respondent exceeded his authority in ordering the mental examination and make the preliminary writ permanent.

PRELIMINARY WRIT MADE PERMANENT.

WRIT DIVISION SIX HOLDS: Respondent exceeded his authority by ordering an evaluation as to Relator’s mental state at the time of the alleged crime without Relator pleading not guilty by reason of mental disease or defect excluding responsibility or filing written notice of intent to enter such a plea.

Opinion by: Nannette A. Baker, P.J.

Roy L. Richter, C.J., and Patricia L. Cohen, J., concur.

Attorneys for Relator: Thomas Marshall Donald Catlett

Attorneys for Respondent: Kevin Zoellner Wendy Horn

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IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND  
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