

No. 52,794-KW

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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JSC
STATE OF LOUISIANA

Respondent

versus

DMW
DEIDRA ARNISE WILLIAMS

Defendant-Applicant

* * * * *

On Application for Writs from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 331,980

Honorable Charles Tutt, Judge

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ELTON B. RICHEY & ASSOCIATES, LLC
Christina Elizabeth Hobbs

Counsel for:
Deidra Arnise Williams

MADELEINE SLAUGHTER-YOUNG
Assistant Attorney General

Counsel for:
State of Louisiana

* * * * *

Before MOORE, GARRETT, and COX, JJ.

THIS WRIT ORDER IS DESIGNATED FOR PUBLICATION.

STATE OF LOUISIANA
COURT OF APPEAL, SECOND CIRCUIT
430 Fannin Street
Shreveport, LA 71101
(318) 227-3700

No. 52,794-KW

STATE OF LOUISIANA

VERSUS

DEIDRA ARNISE WILLIAMS

FILED: 02/15/19

RECEIVED: BYHAND 02/15/19

On application of Deidra Arnise Williams for SUPERVISORY WRIT in No. 331,980 on the docket of the First Judicial District, Parish of CADDO, Judge Brady D. O'Callaghan.

ELTON B. RICHEY & ASSOCIATES, LLC
Christina Elizabeth Hobbs

Counsel for:
Deidra Arnise Williams

MADELEINE SLAUGHTER-YOUNG
Assistant Attorney General

Counsel for:
State of Louisiana

Before MOORE, GARRETT, and COX, JJ.

WRIT GRANTED IN PART; RULING VACATED IN PART AND AMENDED; WRIT DENIED IN PART.

Applicant Deidra Arnise Williams seeks supervisory review of the trial court's December 20, 2018 ruling granting the State's motion to compel examination by the State's expert, absent the assistance of her counsel, even though the trial court allowed defense counsel to be present for a limited purpose. The *res nova* issue before this Court is whether the trial court abused its discretion in compelling the examination of defendant by the State's expert, in light of her stated intention to present expert testimony to show she suffers from Battered Women's Syndrome and that her actions were justified. The trial court ruled that the examination would be necessary in the spirit of procedural fairness. The trial court has the power to control the proceedings to ensure that justice is done. La. C.C.P. art. 1631.

Evidence of Battered Women's Syndrome is admissible in the context of sanity pleas as well as justification/self-defense pleas. *State v. Curley*, 16-1708 (La. 6/27/18), 250 So. 3d 236. This Court is left balancing the defendant's Fifth and possibly Sixth Amendment rights against the fairness owed to the State in

allowing it to carry the burden of proving its case. Allowing the State's expert to examine a defendant will keep the State from being unduly prejudiced because a defendant will not be able to rely on expert testimony that the State has no effective means of rebutting. Based on jurisprudence from other states, we find that if a defense expert will be used to demonstrate the presence of Battered Women's Syndrome in the facts of the case, the State shall have the opportunity to have the defendant examined by its expert, who will be allowed to testify at trial to rebut a defense expert's testimony. Accordingly, this writ is denied as to the granting of the motion to compel.

The writ is granted as to the conditions and limitations placed on the examination. The trial court ruled that "a defense representative may accompany the Defendant to the examination for the purposes of recording; however, under the penalty of contempt, no objections may be raised at any time during the examination process." Defense counsel, as a defense representative, is permitted to be present during the examination. The trial court's prohibition of defense counsel's objections during the examination process is vacated where defense counsel believes such questions will violate the defendant's Constitutional rights against self-incrimination. The examination shall stay within the scope provided for in the trial court's ruling; the State shall furnish defense counsel with a true copy of any report or reports prepared in connection with the examination; and the expert and counsel shall keep their records and reports confidential except as necessary for use in the trial of this case. *State v. Curley*, 16-1708 (La. 6/27/18), 250 So. 3d 236; *State v. Goff*, 128 Ohio St.3d 169, 2010-Ohio-6317, 942 N.E.2d 1075; *State v. Hickson*, 630 So.2d 172 (Fla.1993); *State v. Hess* (1992), 252 Mont. 205, 828 P.2d 382.

Shreveport, Louisiana, this 24th day of April, 2019.

THIS WRIT ORDER IS DESIGNATED FOR PUBLICATION.

JSC Danny JGJ

FILED: April 24, 2019
Brian J. Ware
CLERK