

IN THE SUPREME COURT OF FLORIDA

COREY JAMAINE DOZIER,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

CASE NO. SC15-2092

L.T. NOS. 1D15-1427
2013-CF-010155

ON DISCRETIONARY REVIEW FROM
THE FIRST DISTRICT COURT OF APPEAL

REPLY BRIEF OF PETITIONER

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RECEIVED, 08/17/2016 03:48:37 PM, Clerk, Supreme Court

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PRELIMINARY STATEMENT

This brief is submitted in reply to Respondent's Answer Brief. Petitioner relies on the arguments in his Initial Brief, and submits this brief only to reply to arguments made by Respondent in its Answer Brief. Petitioner's Initial Brief will be referenced as "I.B." and Respondent's Answer Brief will be referenced as "A.B.", followed by the corresponding page number(s). All other references will be as designated in the Initial Brief.

STANDARD OF REVIEW

The State agrees that the standard of review as to this issue is de novo. (A.B. 5).

ARGUMENT AND REBUTTAL

THE FIRST DCA ERRED IN FINDING THAT MR. DOZIER IS NOT ENTITLED TO DISMISSAL OF HIS CHARGES WITH PREJUDICE UNDER THE IADA AFTER HE SUBSTANTIALLY COMPLIED WITH THE IADA'S REQUIREMENTS AND THE PROSECUTION FAILED TO TRY HIM WITHIN THE REQUISITE 180 DAYS.

The District Court denied Mr. Dozier's motion for two reasons. Petitioner addressed each reason separately in his Initial Brief and will do so again in his Reply.

- I. Mr. Dozier is entitled to the protections of the IADA based on the detainer lodged against him by the State of Florida while in the custody of the South Carolina Department of Corrections ("SCDC"). The detainer arose out of a criminal complaint as conceived by the IADA.

The Respondent asserts that Mr. Dozier fails to assert a conflict for this Court's review with respect to this issue. (A.B.

5). The District Court determined Mr. Dozier was not entitled to the protections of the IADA for two reasons. The first reason was because he had not been formally charged by indictment, information, or complaint. In so holding, the Court declined to address what would constitute a "complaint" for purposes of the IADA. Dozier v. State, 175 So.3d 322 (Fla. 1st DCA 2015). This holding directly conflicts with the First District Court of Appeal's holding in Bartlett v. State, 993 So.2d 157 (1st DCA 2008). In Bartlett, the District Court explained that a "criminal complaint" is the sworn instrument by which law enforcement commences an arrest and prosecution; or more simply put, a criminal complaint is a police report. Id. Further, Section 901.02, Fla. Stat. (2013), discusses what must necessarily exist prior to the issuance of a warrant. As defined by 901.02(1), a criminal complaint is the sworn police report outlining probable cause for arrest which must necessarily be examined prior to the issuance of a warrant. These previously delineated definitions of "complaint" are in direct conflict with the District Court's finding that no complaint existed in Mr. Dozier's case which would entitle him to the protections of the IADA.

A criminal complaint was sworn against Mr. Dozier on September 11, 2011, by Detective Hill with the Jacksonville Sheriff's Office for the charges of Murder, Attempted Murder, and Grand Theft. The complaint constituted the basis of the detainer placed against Mr.

Dozier when he was in the custody of "SCDC". Mr. Dozier was therefore entitled to the protections of the IADA because a criminal complaint existed against him at the time he invoked his speedy trial rights under the IADA while in the custody of SCDC.

Respondent asserts that Mr. Dozier was not entitled to the protections of the IADA because the Florida prosecutor had not yet sought an indictment more than three years from the date of the alleged crime and almost two years from Mr. Dozier's receipt into SCDC. This interpretation would mean that the prosecutor would retain the ultimate and sole power over deciding whether or not an inmate is entitled to a speedy trial, or alternatively whether they will indefinitely exist in limbo as a result of pending out of state charges. Such a delay or interference with speedy trial rights creates the exact harm all speedy trial principles seek to prohibit, to include the speedy trial rights afforded by the IADA. The power to cause indefinite delay not only produces uncertainty, anxiety, and interference with the prisoner's treatment and rehabilitation opportunities as suggested by the Maryland Court of Special Appeals in Maryland v. Smith, 534 A.2d 371 (Md. Ct. Spec. App. 1987), but it allows for a prosecutor to sit on a case while evidence grows stale, memories fade, and witnesses become difficult to locate, thus prejudicing the accused. None of the other speedy trial protections afford this absolute power to the prosecuting authority. In fact, quite the contrary.

The right to a Constitutional speedy trial is guaranteed by the Sixth Amendment to the Constitution. Barker v. Wingo, 407 U.S. 514 (1972). This protection is triggered by arrest or indictment, whichever occurs first, and not by some affirmative action on the part of the prosecuting agency. Id. The accused alone has the power to waive this fundamental right, which is so sacred that a waiver will not be presumed and instead must be proven to be knowing and voluntary on the part of the accused. The Supreme Court notes in Barker that, delay of a trial can produce indefinite confinement, "anxiety and concern of the accused," and "the possibility that the [accused's] defense will be impaired" by dimming memories and loss of exculpatory evidence. Id. at 532.

Constitutional Speedy trial rights are triggered at the time of arrest, not by the act of the prosecution seeking an indictment or information. Dillingham v. U.S., 423 U.S. 64 (1975). In Dillingham, the lower court mistakenly engaged in an analysis identical to that offered in Respondent's Answer Brief. In doing so, the lower court incorrectly held that Dillingham was not entitled to dismissal based on a twenty-two month delay between arrest and indictment because in the absence of an indictment the defendant's prosecution had not "commenced" for purposes of speedy trial protections. The Supreme Court disagreed with this analysis, holding that, "[s]o viewed, it is readily understandable that it is either a formal indictment or information or else the actual

restraints imposed by arrest and holding to answer a criminal charge that engage the particular protections of the speedy trial provision of the Sixth Amendment." Id. at 65.

According to Florida Rule of Criminal Procedure 3.191, an accused also has procedural speedy trial rights. Though 3.191 does not extend protections to out of state inmates, it is important to examine the triggering methods for these speedy trial protections and the reasoning behind such triggering methods. In State v. Agee, 622 So.2d 473 (Fla. 1993), the State nol prossed the defendant's charges prior to the expiration of the prescribed speedy trial period when faced with significant proof problems that would prohibit a successful prosecution. When the state's case improved, they filed an information for murder. The Supreme Court affirmed the dismissal of Agee's charges based on a violation of speedy trial under Rule 3.191. In doing so, the Court discussed the purpose of speedy trial stating, "[t]he purpose of the rule is "to promote the efficient operation of the court system and to act as a stimulus to prosecutors to bring defendants to trial as soon as practicable, thus minimizing the hardships placed upon accused persons awaiting trial." The Court went on to hold that Agee's speedy trial rights were triggered by his arrest and that the state does not have the unilateral power to interfere with an accused's speedy trial rights by dismissing filed charges or by delaying the filing of charges.

In Williams v. State, 791 So.2d 1088 (Fla. 2001), the Supreme Court went on to finally dispel the State's arguments that only an arrestee formally charged with an offense was entitled to the protections of 3.191. The Williams Court stated, "[t]hus, we hold that the speedy trial time begins to run when an accused is taken into custody and continues to run even if the State does not act until after the expiration of that speedy trial period." Id. at 1091.

In no other set of speedy trial circumstances does the state have the absolute power to function as the sole triggering mechanism for an accused to avail himself to speedy trial protections. Respondent acknowledges the "uncertainties" that are produced by delayed prosecution but incorrectly asserts that the IADA's speedy trial protections did not apply to Mr. Dozier because he had not yet been indicted. (A.B. 10). Such interpretation is contrary to the spirit and purpose of speedy trial and the stated intent of the IADA.

II. Mr. Dozier is entitled to a dismissal of his charges because he substantially complied with the provisions of the IADA when requesting a final disposition and the State of Florida failed to bring him to trial within 180 days of his request.

Petitioner discussed this issue at length in his Initial Brief and relies largely upon his arguments raised therein. The State suggests that Mr. Dozier is not entitled to the benefit of substantial compliance because "the State cannot expeditiously

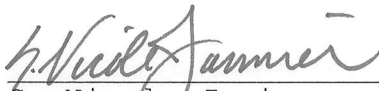
resolve charges it is unaware that an inmate wants resolved.” (A.B. 20). This case is not that of an ambush dismissal against some unknowing prosecutor. Assistant State Attorney Bernie De la Rionda has been involved in Mr. Dozier’s case since the time of the original incident in September of 2011. Mr. De la Rionda sought the original warrants for Mr. Dozier’s arrest. He directed the Detectives to interview Mr. Dozier in South Carolina after he committed his South Carolina offenses. Further, during the hearing on the Motion to Dismiss in the trial court, Mr. De la Rionda admitted actual knowledge of Mr. Dozier’s whereabouts and availability for trial. (R, 98). The purpose of the IADA is to “encourage the expeditious and orderly disposition of charges” so that an out of state inmate does not languish in limbo. See Maryland v. Smith, 534 A.2d 371, 374 (Md. Ct. Spec. App. 1987). In this case, the prosecution did nothing to seek an orderly or expeditious disposition of Mr. Dozier’s charges despite being aware of them and intimately familiar with his whereabouts.

CONCLUSION

For the reasons addressed above, Mr. Dozier respectfully requests that this Court reverse and remand his case to the trial court for a dismissal of all charges.

Respectfully submitted,

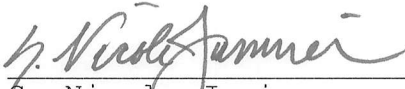
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Reply Brief of Petitioner has been furnished to Matthew Pavese, Assistant Attorney General, Office of the Attorney General, Pl-01, The Capitol, Tallahassee, Florida, 32301, by e-service to crimapptlh@myfloridalegal.com and Matthew.Pavese@myfloridalegal.com on this 17th day of August, 2016.



S. Nicole Jamieson
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CERTIFICATE OF TYPE SIZE AND STYLE

Counsel for Petitioner certifies that the size and style of type used in this Reply Brief of Petitioner is 12 point Courier New.