No. 131608

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Petitioner-Appellee, v. JESSIE JACKSON Defendant-Appellant.	))))))))))	Appeal from the Appellate Court of Illinois, Fifth Judicial District, No. 5-23-0504 There on Appeal from the Circuit Court of the Fifth Judicial Circuit, Vermilion County, Illinois, No. 19-CF-650 The Honorable Derek J. Girton, Judge Presiding.

BRIEF AND APPENDIX OF PLAINTIFF-APPELLEE PEOPLE OF THE STATE OF ILLINOIS

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POINTS AND AUTHORITIES

NATURE OF THE ACTION

Following a stipulated bench trial, defendant was convicted of home invasion with a deadly weapon and sentenced to 18 years in prison. C204; R208-09.[1] Defendant appeals from the appellate court's judgment affirming his conviction. A18, ¶¶ 45-46. No question is raised on the pleadings.

ISSUE PRESENTED FOR REVIEW

The trial court denied defendant's motion to dismiss the charges under 725 ILCS 5/103-5(a) (the speedy-trial statute), holding that the 120-day speedy-trial period had not yet expired. The issue presented is:

Whether the trial court correctly denied defendant's motion to dismiss and tried him within the 120-day period prescribed by section 103-5(a).

JURISDICTION

On May 28, 2025, this Court allowed defendant's petition for leave to appeal. Accordingly, the Court has jurisdiction under Supreme Court Rules 315, 602, and 612.

STATUTE INVOLVED

The speedy-trial statute provides in relevant part:

> (a) Every person in custody in this State for an alleged offense shall be tried by the court having jurisdiction within 120 days from the date he or she was taken into custody unless delay is occasioned by the defendant, by an examination for fitness ordered pursuant to Section 104-13 of this Act, by a fitness hearing, by an adjudication of

[1] Citations to the common law record appear as "C__," to the report of proceedings as "R__," to defendant's brief as "Def. Br. __," and to defendant's appendix as "A__."

> unfitness to stand trial, by a continuance allowed pursuant to Section 114-4 of this Act after a court's determination of the defendant's physical incapacity for trial, or by an interlocutory appeal. Delay shall be considered to be agreed to by the defendant unless he or she objects to the delay by making a written demand for trial or an oral demand for trial on the record. . . .
>
> * * *
>
> (f) Delay occasioned by the defendant shall temporarily suspend for the time of the delay the period within which a person shall be tried as prescribed by subsections (a), (b), or (e) of this Section and on the day of expiration of the delay the said period shall continue at the point at which it was suspended. Where such delay occurs within 21 days of the end of the period within which a person shall be tried as prescribed by subsections (a), (b), or (e) of this Section, the court may continue the cause on application of the State for not more than an additional 21 days beyond the period prescribed by subsections (a), (b), or (e). . . .

725 ILSC 5/103-5.

STATEMENT OF FACTS

I. Defendant Is Arrested in 2019, Arraigned 16 Days Later, and Requests Continuances Until March 2022.

On November 10, 2019, Danville police arrested defendant for breaking into the home of Dylan Batsch — who had an active order of protection against defendant — and threatening Batsch with a firearm. R4-8. Batch was at home when defendant kicked in the door, held a gun to Batsch's face, and threatened to kill him. C30-32; R8. When Batsch fled, defendant fired his gun. R8. Responding officers arrested defendant, *id.*, and he was initially charged with two counts of home invasion, two counts of unlawful possession of a weapon by a felon, two counts of violating an order

of protection, and one count of domestic battery, C30-32. Those charges were later amended to include a charge for home invasion with a deadly weapon. C190-93.

Sixteen days after his arrest, on November 26, 2019, defendant was arraigned and pleaded not guilty to all charges. R15. The court set the case for trial on February 18, 2020, and confirmed that defendant had no objection to attributing the delay between November 26, 2019, and February 18, 2020, to him. R15-16.

In December 2019, defendant moved for substitution of judge. C53-54. The court granted the motion, struck the February 18 trial date, and reassigned the case to a different circuit judge. R19. When the case first came before the new judge on February 27, 2020, defendant asked to continue the case to April 23, 2020. R21-23. Over the next two years, defendant requested 11 continuances, R25-26, 29-30, 32-33, 44-45, 48, 51, 54, 57, 60, 63, 67-68, and agreed to two more, R37-38, 42. The last of these continuances took the case to March 22, 2022. R67-68. At no point during this nearly two-year period did defendant request that the court set the case for trial. *See generally* R25-67.

II. Defendant Requests Trial for May 3, 2022, and Objects When the Court Later Reschedules the Trial Date at the People's Request.

At the March 22, 2022 hearing, defense counsel "ask[ed] for a speedy trial for [defendant]." R71. The court asked counsel if he "want[ed] May 3rd," and counsel responded, "Yes, we'll set it there." *Id.* The court set the

matter for trial on May 3, 2022, with a final pretrial conference on April 29, 2022. *Id.*

At that pretrial conference, the People asked to continue the trial because they were awaiting DNA test results and forensic evidence that would not be available by May 3. C105; R86. Defendant objected and "demand[ed] speedy trial," R86, and the court continued the case over defendant's objection, rescheduling trial for June 7, 2022, with a final pretrial date of June 3. R86-88, 91-92.

III. Thirty-One Days After Objecting to the People's Continuance, Defendant Requests a Continuance, the Case Is Subsequently Removed from the Trial Call, and Defendant Agrees to Continuances Until April 2023.

At the pretrial hearing on June 3, 2022, the People provided defendant and the court with their statement of the case, jury instructions, witness list, motions in limine, exhibits, and an exhibit list. R95-96. But defendant requested another continuance because he needed time to consult with defense counsel. R96-97. The People noted that trial was not scheduled to start until the following week and that they "wouldn't have a problem" starting jury selection the following Wednesday. R98. The court granted defendant's request for a continuance, set the matter for trial on August 16, 2022, and determined that the delay tolled the speedy-trial period. R99.

Five days before the scheduled trial date — on August 11, 2022 — defense counsel moved to withdraw at defendant's request. R133. Counsel explained that defendant requested time to find another attorney and asked

that the public defender be appointed in the interim. R133. After confirming with defendant that he wanted new counsel, R135-36, the court granted defendant's motion, appointed the public defender, and set the matter for a pretrial conference on October 12, 2022. R136-37.

On October 12, 2022, the public defender appeared on defendant's behalf, and the case was continued at defendant's request to November 22, 2022. R142. Between November 22, 2022, and April 25, 2023, the case was continued three more times either at defendant's request or by agreement. R145, 149, 152. Defendant did not request trial at any time during this period; rather, he repeatedly requested continuances as he attempted to negotiate a plea deal. *See id.*

IV. In April 2023, Defendant Requests Trial and Receives a July 18, 2023 Trial Date.

At the April 25, 2023 hearing, defendant appeared via video and counsel asserted on his behalf that defendant "demand[ed] trial pursuant to the speedy trial statute." R163-65. When counsel stated her belief that the 120-day period would expire on May 30, R163-65, the court explained that it had no trial dates available until July 18, but that it would "find a judge that can try the case for [defendant] if [he] want[ed] to be ready" on May 2. R164. Defense counsel assured the court that she would be ready for trial on May 2, R164, and the prosecutor initially agreed that the People would be ready as well, R165-66. The court ended the hearing by expressing confidence that a judge could be found to try defendant on May 2. R166 ("If [defendant] thinks

we're not going to be able to find a judge for his case, he will be sorely surprised.").

But after a break, the court recalled the case to "address" the proposed May 2 trial date; by that time, defendant was no longer on video. R167. After defendant was again present by video, the court recalled the case again, R167-68, and the prosecutor reported that he had spoken with the victims, who informed him that they could not appear on May 2 due to previously scheduled surgeries. R167-69. The court set the case for trial on its next available date of July 18, 2023, over defendant's objection. R169-70.

V. The Trial Court Denies Defendant's Motion to Dismiss.

In June 2023, defendant moved to dismiss the charges on speedy-trial grounds. C160-62; *see* 725 ILCS 5/103-5(a). Defendant put forth two alternative calculations in support of his argument that more than 120 days of delay were attributable to the People. Both calculations attributed to the People the 16 days between defendant's arrest and arraignment and the 73 days between March 22, 2022, when defendant first asked that the case be set for trial, and June 3, 2022, when he asked to continue the trial date. C161-62. The two calculations differed in that the first counted the remaining 31 days as running from April 25, 2023, when defendant made his second request that the case be set for trial, whereas the second counted the 31 days as running from May 2, 2023, which defendant asserted was the trial date set on April 25, 2023. *Id.*

The People opposed the motion, arguing that when "a defendant requests that a set trial date be continued, any speedy trial term is tolled up until the newly set date of the trial." C187. Therefore, defendant's scheduled July 18, 2023 trial would be timely because his request for a continuance on June 3, 2022, tolled the speedy-trial period until the next trial date, which was July 18, 2023. C186-87.

Following a hearing, the trial court denied defendant's motion. R196. The court explained that when a defendant seeks a continuance that causes the case to be removed from the trial call, the statutory period remains tolled until the case once again gets scheduled for trial, then resumes "when we get to the next trial" date. R194. Accordingly, the 120-day period did not resume on April 25, 2023, when defendant requested a trial date; instead, because the case had been removed from the trial call after defendant repeatedly sought continuances without a new trial date, the statutory period remained tolled until the next available trial date. R194. The court further determined that the next trial date was July 18, 2023, not May 2, 2023. R195-96. As the court found, the People "initially saying [they] could be ready on May 2nd and then later that day asking that it be" set for a later date was not "tantamount to a trial date being set and then a motion to continue" because the case was recalled within two hours "to deal with getting a date where both sides were, in fact, going to be ready." R195-96.

VI. The Trial Court Finds Defendant Guilty Following a Stipulated Bench Trial.

Though trial was scheduled for July 18, 2023, defendant proceeded to a stipulated bench trial when the case was called for the final pretrial hearing on July 13. R202. Defendant agreed to proceed to the stipulated bench trial on one count of home invasion in exchange for the People's dismissal of the remaining charges and recommendation that he receive an 18-year sentence. R202-04, 206. Defendant stipulated that Dylan Batsch would testify that defendant kicked in the door of Batsch's home, entered, and threatened to kill Batsch while wielding a metal bludgeon. CI8; R207. Batsch's mother — the homeowner — would confirm that defendant did not live there. CI8. Finally, the People would introduce evidence that Batsch and his mother had a valid order of protection again defendant when he broke into their home. *Id.* Defendant did not introduce any evidence. R208.

Based on this evidence, the court found defendant guilty of home invasion and sentenced him to 18 years in prison. R208-09.

VII. The Appellate Court Affirms

On appeal, defendant argued that (1) the trial court erred in denying his motion to dismiss on speedy-trial grounds under section 103-5(a), and (2) the trial court erred by imposing the agreed-upon 18-year sentence without first either considering a presentence investigation report or making a finding about his criminal history. *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 2. The appellate court affirmed, holding that defendant was

tried within the 120-day period because the periods between when defendant requested that his case be set for trial and the resulting trial dates — between March 22, 2022 and April 29, 2022, and between April 25, 2023 and July 18, 2023 — were attributable to defendant. *Id.* ¶¶ 35-36. The court explained that, by moving to continue, defendant had implicitly agreed that the speedy-trial clock would be tolled. *Id.* ¶ 30. The court further emphasized the potential for abuse if a defendant who has "asked for or agreed to a continuance to a status date or a pretrial date without setting a specific trial date, regardless of whether the defendant has expressly agreed that the time will toll until the next trial setting" is then permitted to "announce ready for trial on a status date and claim that this restarts the speedy trial clock without regard to the court's or the State's availability." *Id.* The appellate court remanded for resentencing in compliance with the sentencing statute. *Id.* ¶ 43.

STANDARDS OF REVIEW

The question of how the 120-day period is calculated under section 103-5(a) is an issue of statutory interpretation that this Court reviews de novo. *People v. Fair*, 2024 IL 128373, ¶ 61; *see People v. Van Schoyck*, 232 Ill. 2d 330, 335 (2009) (question of how speedy-trial statute applies to case at bar is reviewed de novo). The question of whether the trial court correctly determined that a particular delay was attributable to defendant is reviewed for an abuse of discretion. *People v. Hall*, 194 Ill. 2d 305, 327 (2000) ("[A]

trial court's determination as to whether a delay is attributable to the defendant is entitled to much deference and should be sustained absent a clear showing that the trial court abused its discretion."). A trial court does not abuse its discretion unless its decision is "arbitrary, fanciful, or unreasonable to the degree that no reasonable person would agree with it." *People v. Sloan*, 2024 IL 129676, ¶ 15.

ARGUMENT

The trial court correctly denied defendant's motion to dismiss on speedy-trial grounds because the 120-day statutory period had not yet expired when defendant filed his motion to dismiss. Moreover, defendant's eventual trial was held within the 120-day period. Defendant's arguments to the contrary are predicated on the mistaken belief that the time between a defendant's request for trial and the resulting trial date is attributable to the People, which interpretation of section 103-5(a) is squarely foreclosed by the plain language of the statute and this Court's decision in *People v. Cordell*, 223 Ill. 2d 380 (2006).

The Trial Court Correctly Denied Defendant's Motion to Dismiss the Charges on Statutory Speedy-Trial Grounds.

The trial court correctly denied defendant's motion to dismiss the charges because the 120-day period had not expired when he filed his motion in June 2023. Moreover, defendant's July 13, 2023 trial fell within the 120-day period. Therefore, this Court should affirm the appellate court's judgment.

A. Under section 103-5(a), a defendant in custody must be tried within 120 days of arrest, and that 120-day period is tolled by any delay to which the defendant does not object by demanding trial.

To determine whether defendant was tried within the 120-day period prescribed by section 103-5(a), the Court must construe section 103-5(a). When construing section 103-5(a), this Court's primary objective is to "ascertain and give effect to the intent of the legislature" in enacting the statute. *People v. Burge*, 2021 IL 125642, ¶ 20. "[T]he best indication of that intent is the statutory language itself, giving it its plain and ordinary meaning," *id.*, and construing it in light of "the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another," *People v. Boyce*, 2015 IL 117108, ¶ 15. In doing so, the Court presumes that the legislature did not intend "absurd results," and so avoids construing the statute in a way that would lead to such results. *People v. Hanna*, 207 Ill. 2d 486, 498 (2003).

Section 103-5(a) provides that a defendant in custody must be tried within 120 days from the date he was taken into custody. 725 ILCS 5/103-5(a); *see People v. Mayfield*, 2023 IL 128092, ¶ 20 ("Section 103-5(a) provides a starting point, the date custody begins, and an ending point, 120 days later."). The statute further provides that the 120-day period is tolled whenever "delay is occasioned by defendant," and specifies that delay "shall be considered to be agreed to by the defendant unless he or she objects to the delay by making a written demand for trial or an oral demand for trial on the

record." 725 ILCS 5/103-5(a); *see People v. Hartfield*, 2022 IL 126729, ¶ 35. This applies to *any* delay in the proceedings, not merely continuances of an existing trial date or continuances which would result in proceedings being scheduled outside of the 120-day period, for "[t]here is nothing in the section to indicate that the 'delay' must be of a set trial date." *Cordell*, 223 Ill. 2d at 390. Consequently, any delay in proceedings tolls the 120-day period unless a defendant "make[s] an objection specifically by demanding trial." *Hartfield*, 2022 IL 126729, ¶ 35 ("[A] mere objection to delay does not suffice to invoke the statutory speedy-trial right."). In short, "the statute puts the onus on a defendant" in custody to raise a specific objection — a speedy-trial demand — whenever a delay is proposed; if he does not, that delay is excluded from the 120-day statutory period. *Id.*

Because a speedy-trial demand under section 103-5(a) operates as an objection to a proposed delay, this Court has long recognized that a defendant's request for trial before a delay has been proposed does not cause the tolled speedy-trial clock to resume running. *See Cordell*, 223 Ill. 2d at 391-92. In *Cordell*, this Court explained that "[a] simple request for trial, before any 'delay' is proposed, is not equivalent to an objection for the purposes of section 103-5(a)," which "places the onus on a defendant to take affirmative action when he becomes aware" of a proposed delay. *Id.* at 391. Accordingly, a defendant's request for trial, made before a trial date has been proposed, is not a "demand" made in response to a proposed delay, and thus

does not cause the speedy-trial clock to run between the defendant's request for a trial date and the trial date set in response to that request. *Id.* at 390-93. As this Court explained, "[t]o allow basic requests for trial, made before any delay was even proposed, to qualify as objections to 'delays' not yet proposed would provide defendants with another sword to use after the fact to overturn their convictions," which "does not comport with the intention of section 103-5(a)." *Id.* at 391-92.

In sum, a "demand" for trial is relevant only when made as an objection to a proposed delay, in which case it prevents that delay from tolling the 120-day period. A defendant who has agreed to a proposed delay, tolling the 120-day period, cannot resume the speedy-trial clock before the end of the agreed-upon delay simply by announcing a desire for trial. Rather, once a defendant has tolled the 120-day period by acquiescing to a delay, the period restarts only once the agreed-upon delay has expired, a new delay has been proposed, and the defendant has lodged his objection to that proposed delay by demanding trial. *See* 725 ILCS 5/103-5(f).

Under this Court's reasoning in *Cordell* and the statute's plain language, therefore, just as a defendant who agrees to continue his case to a set trial date has agreed to the delay until that trial date, a defendant who agrees to a continuance without setting a trial date has effectively agreed to continue the trial at least until the trial court's next available date. In both instances, if the defendant were to demand trial before the end of the delay to

which he previously agreed, that simple request for trial would not unilaterally resume the speedy-trial period because it would not be made in response to a proposed delay.

B. The trial court correctly applied section 103-5(a) to deny defendant's motion to dismiss and tried him within the 120-day period.

Applying these principles here, the court correctly denied defendant's motion to dismiss because the 120-day period had not expired when defendant moved to dismiss. Moreover, defendant's eventual trial on July 13, 2023, was held within the 120-day statutory period, so defendant could not have renewed his motion at any point before trial and obtained relief.

The parties agree that the 120-day period ran for 16 days between defendant's arrest on November 10, 2019, and his arraignment on November 26, 2019. Def. Br. 24. The parties also agree that the 120-day period was tolled from November 26, 2019, until March 22, 2022, *id.*, during which time defendant either requested or agreed to a series of continuances. At the last of these continuances, he agreed to a pretrial hearing on March 22, 2022. At the March 22, 2022 hearing, defendant requested that the case be set for trial and agreed to a May 3, 2022 trial date, tolling the 120-day period until May 3, 2022. *See Cordell*, 223 Ill. 2d at 390-93 (120-day period does not run between request for trial and resulting trial date). The 120-day period resumed running on May 3, 2022, when trial was continued past defendant's agreed-upon date at the People's request and he objected to that proposed delay by demanding trial. R86-88. The 120-day period then ran for 31 days

until it was tolled again on June 3, 2022, when defendant requested a continuance, R96-99, and it remained tolled as defendant agreed to or requested a series of continuances and the case was removed from the trial schedule, R136-37, 142, 145, 149, 152. When the case was called for a pretrial conference on April 25, 2023, defendant again asked the court to set the case for trial and, when the trial court noted that its next available trial date was not until July 18, 2023, agreed to the court's tentative proposal of a May 2 trial date before a different judge (who had not yet been asked much less agreed to preside over a trial on that date). R164-65. But the court aborted its effort to find a different judge to try defendant earlier than the court's earliest available trial date after the People discovered that the victims would be unavailable for a May 2 trial due to previously scheduled medical procedures. R169-70, 195-96. Thus, defendant's request for trial resulted in trial being set for the court's next available trial date of July 18, 2023, and the speedy-trial period remained tolled until the case concluded early with a stipulated bench trial on July 13, 2023. R202-12.

In total, 47 days of untolled time passed between defendant's arrest and his eventual trial on July 13, 2023: 16 days between defendant's arrest and arraignment, plus 31 days between the May 3, 2022 trial date that was continued over defendant's objection and his request for a continuance on June 3, 2022. The trial court therefore correctly denied defendant's motion to dismiss on June 8, 2023.

Defendant's arguments to the contrary are meritless because they misapprehend the function of a speedy-trial demand and rest on an unsupported disagreement with the trial court's factual finding that the case was never actually set for trial on May 2, 2022.

1. Defendant is incorrect that his requests for trial caused the tolled 120-day speedy-trial period to resume running.

Defendant is incorrect that the 120-day period resumed running on March 22, 2022, and again April 25, 2023, merely because on those dates he asked the court to set the case for trial. Def. Br. 10, 20, 24-27. Indeed, defendant's argument is squarely foreclosed by this Court's holding in *Cordell* that such requests for trial are "not equivalent to an objection for the purposes of section 103-5(a)" unless they are in the form of an objection to a newly proposed delay. 223 Ill. 2d at 391. Neither of defendant's requests for trial — on March 22, 2022 or on April 25, 2023 — were made in response to a newly proposed delay. Rather, both requests were made during delays to which defendant had *previously agreed* when he agreed to continue the case for pretrial hearings without a set trial date — that is, delays until the next available trial date after those hearings. In other words, defendant was merely making "basic requests for trial." *See id.* And a defendant cannot revoke his previous agreement to a delay simply by requesting trial during that delay. Were the rule otherwise, "basic requests for trial, made before any delay was even proposed, . . . would provide defendants with another

sword to use after the fact to overturn their convictions," which "does not comport with the intention of section 103-5(a)." *Id.* at 391-92.

This Court's construction of section 103-5(a) in *Cordell* is further confirmed by the statute's legislative history, which reveals the General Assembly's intent that the 120-day period be tolled during *any* delay in proceedings unless a defendant objects to the delay when it is proposed. Before its amendment in 1999, section 103-5(a) did not specify that delay was occasioned by the defendant unless the defendant objected by demanding trial. *Id.* at 386. Under the prior version of the statute, "only affirmative acts by the defendant that caused or contributed to the delay would toll" the 120-day period, and courts repeatedly held that "mere silences or failures to object to continuances requested by the prosecution or the court" were not attributable to defendants under the statute. *Id.*; *see People v. Reimolds*, 92 Ill. 2d 101, 106 (1982) ("mere silence on the part of the defendant or failure to object to the state's request for a delay" not delay attributable to defendant); *People v. Beyah*, 67 Ill. 2d 423, 428-29 (1977) (delay not attributable to defendant where defendant did not object to continuance caused by court); *People v. Healy*, 293 Ill. App. 3d 684, 690 (1st Dist. 1997) ("mere acquiescence to a date suggested by the court" did not toll 120-period under prior version of section 103-5); *People v. Cichanski*, 81 Ill. App. 3d 619, 622 (2d Dist. 1980) (delay not attributed to defendant when defendant agreed to trial date suggested by court); *People v. Burchfield*, 62 Ill. App. 3d 754, 756 (3d Dist.

1978) (delay not attributable to defendant where defendant failed to object to State's request for continuance).

In response to these decisions, the legislature amended section 103-5(a) to provide that a defendant must object to the delay — via a written or oral demand for trial — to avoid the delay being attributed to him and tolling the speedy-trial period. *See Cordell*, 223 Ill. 2d at 386-88. Thus, under the current version of section 103-5(a), defendant's "basic requests" to set a trial date did not cause the 120-day period to resume running. *Id.* at 391.

a. None of defendant's cited authority supports his interpretation of section 103-5(a).

None of the authority on which defendant relies supports the conclusion that *Cordell* was wrongly decided and the legislature intended "basic requests" for trial to resume the running of the speedy-trial period. Indeed, none of those cases address the effect of a request for trial under the present version of section 103-5(a).

Defendant's pre-1999 cases have no precedential value because they predate the 1999 amendment to section 103-5(a). *See Cordell*, 223 Ill. 2d at 388 (explaining that 1999 amendment to subsection 103-5(a) was "[t]he legislative response" to decisions construing prior statute).

Defendant's other cases similarly do not consider the effect of a request for trial under section 103-5(a). For example, *People v. Cross* (cited at Def. Br. 11, 14-15) addressed "whether a delay can be attributable to the defense for purposes of a speedy trial if the defendant's action does not result in the

postponement of a pending trial date." 2022 IL 127907, ¶ 1. This Court held that such delay is attributable to the defendant, and that the time between the defendant's disclosure of an alibi defense and trial therefore was properly attributed to the defendant. *Id.* ¶ 33. The Court did *not* address whether the trial court had correctly attributed the time between the defendant's request for trial and disclosure of his alibi defense to the People but merely noted that this period "was originally attributed to the State." *Id.* ¶ 25. That is, this Court did not silently overrule its decision in *Cordell* that the period between a request for trial and the resulting trial date is attributable to the defendant merely by noting that the trial court had done otherwise. Rather, the Court confined its holding to the question before it — whether a defendant's late disclosure of an alibi defense constituted a delay attributable to defendant — which holding has no bearing on the issue here: namely, whether a defendant's request for trial resumes a tolled speedy-trial clock.

The remainder of defendant's authority concerns the wrong statute, i.e., section 103-5(b) rather than section 103-5(a), the provision at issue here. Def. Br. 15-17 (citing *Van Schoyck*, 232 Ill. 2d 330; *People v. Rogers*, 2021 IL 126163; *People v. Meyer*, 294 Ill. App. 3d 954 (5th Dist. 1998); *People v. Golden*, 2021 IL App (2d) 20020; *People v. Dismuke*, 2013 IL App (2d) 120925).

Subsections (a) and (b) govern different circumstances, and the differences between those subsections confirm the General Assembly's intent

that a request for trial *not* resume the speedy-trial clock under subsection (a). Section 103-5(b) applies to defendants who are not in custody, providing that a defendant on pretrial release must be tried "within 160 days from the date defendant demands trial unless delay is occasioned by the defendant." 725 ILCS 5/103-5(b). Thus, under subsection (b), the 160-day period does not begin *unless and until* the defendant demands trial. *See People v. Wooddell*, 219 Ill. 2d 166, 122 (2006) (160-day period under subsection (b) "begins to run only when the accused files a speedy-trial demand"). Conversely, under subsection (a), for defendants in custody, the 120-day period begins to run automatically once a defendant is taken into custody, without any need for a speedy-trial demand. *See id.* (under section 103-5(a), defendants "are not required to file a demand" to begin their speedy-trial period because "the period begins to run automatically"). Had the legislature intended a demand for trial to operate under subsection (a) as a demand for trial operates under subsection (b), it could have done so by similarly specifying that a request for trial triggers the speedy-trial clock. Instead, it opted to limit the role of a demand for trial under subsection (a) so that it operates only as an objection to a proposed delay.

Consequently, a request for trial, when made out of a desire for the court to set the matter for trial rather than to object to a proposed delay, does not cause the 120-day period, tolled by a defendant's previous acquiescence, to resume running. Rather, the tolled clock resumes "on the day of expiration

of the delay" to which the defendant previously agreed. 725 ILCS 5/103-5(f). Thus, when the agreed-upon delay is the delay between a request for trial and the resulting set trial date, the clock resumes on the next trial date. Similarly, when a defendant agrees to continue proceedings without setting a trial date, the clock does not restart when a defendant requests trial, but rather when a delay is proposed beyond the next available trial date and the defendant objects to that proposed delay by demanding trial.

Because subsections (a) and (b) operate differently, defendant's reliance on *Van Schoyck* and *Rogers*, which concerned only subsection (b), is misplaced. In *Van Schoyck*, this Court considered only whether subsection (b)'s 160-day period was tolled by the People's decision to voluntarily dismiss and subsequently refile identical charges. 232 Ill. 2d at 338-40. Similarly, *Rogers*, 2021 IL 126163, considered only whether counsel was ineffective for failing to raise a speedy-trial objection under subsection (b) after the People filed additional charges. *Id.* Neither case addressed whether, under subsection (a), a defendant who agrees to a delay and thus tolls the 120-day period may unilaterally resume the speedy-trial clock by requesting trial. Defendant's reliance on other appellate decisions addressing speedy-trial claims under subsection (b), such as *Meyer*, 294 Ill. App. 3d 954, *Golden*, 2021 IL App (2d) 200207, and *Dismuke*, 2013 IL App (2d) 120925, is similarly misplaced.

Defendant's reliance on *People v. Quigley*, 183 Ill. 2d 1 (1998), and *People v. Williams*, 204 Ill. 2d 191 (2003), *see* Def. Br. 15-16, fares no better. In each of those cases, this Court considered the interplay between compulsory-joinder principles and section 103-5. In *Quigley*, this Court held that, where charges are subject to compulsory joinder, "the speedy-trial period begins to run when the speedy-trial demand is filed, even if the State brings some of the charges at a later date." 183 Ill. 2d at 13. The Court held in *Williams* that where charges are "subject to compulsory joinder, delays attributable to the defendant on the initial charges are not attributable to the defendant on the subsequent charges" under subsection (a). 204 Ill. 2d at 208. Neither of these cases bear on the issue at hand.

And although *People v. Smith*, 2016 IL App (3d) 140235, *overruled on other grounds by People v. Marcum*, 2024 IL 128687, addresses the running of the 120-day period under section 103-5(a), defendant mischaracterizes that case. Defendant cites *Smith* for the proposition that a "'defendant was required to make a speedy trial demand in order to start the speedy trial clock.'" Def. Br. 17 (quoting *Smith*, 2016 IL App (3d) 140235, ¶ 5). But in the quoted language, the appellate court merely recounted the trial court's reasoning that because the defendant was not in custody, he was required to demand trial in order to start the 160-day period under subsection (b). *Id.* In addressing the defendant's claim, the appellate court found that the defendant *was* in custody and his speedy-trial claim was governed instead by

subsection (a); it then held that (1) the 120-day period began to run automatically when the defendant was taken into custody, *id.* ¶ 18, and (2) the 120-day period was not tolled during the continuance of the trial date at the People's request because the defendant had properly objected to that continuance by demanding trial, *id.* ¶ 20. Thus, *Smith* squarely supports the People's interpretation of section 103-5(a).

Finally, defendant is incorrect that it is unfair to hold him accountable for the delay between May 2, 2023 — the date on which he wanted to be tried but which was unavailable unless another judge could be found to try him — and July 18, 2023, which was the trial court's next available trial date. *See* Def. Br. 23-24. Defendant's case was removed from the trial call due to his requests for a continuance. Consequently, defendant caused the delay between his request to put his case back on the trial call and the next available trial date, and the speedy-trial clock remained tolled under section 103-5(a). Had the People suggested a trial date beyond the trial court's next available date, the period between that proposed trial date and the next available date would be attributable to the People, not defendant. But the case instead was set for the trial court's next available trial date, and so the delay between when defendant asked the court to put the case back on the trial call and the first available trial date was appropriately attributed to defendant.

b. Sections 103-5(c) and 103-5(f) do not support defendant's interpretation of section 103-5(a).

Contrary to defendant's assertion, Def. Br. 32-35, sections 103-5(c) and 103-5(f) do not show that defendants may unilaterally resume the tolled clock after agreeing to a delay under subsection 103-5(a).

Subsections (c) and (f) provide mechanisms by which the People may obtain additional time to prepare their case. Under subsection (c), the trial court may grant the People additional time to obtain evidence in two circumstances. First, the court may grant the People up to "an additional 60 days" if it determines that (1) they have diligently sought to obtain material evidence without success and (2) "there are reasonable grounds to believe that such evidence may be obtained at a later day." 725 ILCS 5/103-5(c). Second, the court may grant the People up to "an additional 120 days" if it determines that (1) they have diligently sought to obtain DNA evidence without success and (2) "there are reasonable grounds to believe that such results may be obtained at a later day." 725 ILCS 5/103-5(c). Under subsection (c), "the state bears the burden of showing due diligence." *People v. Williams*, 2023 IL App (1st) 192463, ¶ 83; *see also People v. Swanson*, 322 Ill. App. 3d 339, 342 (3d Dist. 2001) ("The state bears the burden of proof on the question of due diligence"); *People v. Spears*, 395 Ill. App. 3d 889, 893 (2d Dist. 2009) (same). Accordingly, the appellate court has held that the People may obtain a 60-day extension of time to obtain material evidence only by proving that they "began efforts to locate its witness in sufficient time to

secure [his or] her presence before the speedy trial term expired." *Williams*, 2023 IL App (1st) 192463, ¶ 83. And the People cannot obtain a 120-day extension to obtain DNA test results without demonstrating that the steps taken to complete DNA testing "comprise[d] a course of action that a reasonable and prudent person" would follow and "explain[ing] why those efforts fell short and resulted in unavoidable delay." *People v. McKinstry*, 2022 IL App (3d) 180598, ¶ 26.

Subsection (f) allows the People up to "an additional 21 days" to prepare their case when a defendant occasions delay "within 21 days of the end" of the speedy-trial period. 725 ILCS 5/103-5(f). For example, if a defendant's 120-day period is set to expire on the day of trial and the defendant discloses an alibi defense a week before trial, tolling the 120-day period for that last week, *see Cross*, 2022 IL 127907, ¶ 33, the People could ask that the trial be continued for 28 days — the one week remaining on the 120-day period, plus an additional 21 days — so that they can prepare their case.

If a defendant could unilaterally resume a tolled 120-period merely by requesting trial, then neither of these provisions would prevent defendants from wielding the 120-day period "as a sword, after the fact, to defeat a conviction." *Cordell*, 223 Ill. 2d at 390. Under defendant's interpretation of section 103-5(a), for example, a defendant could object to continuances, causing those continuances to count against the 120-day period, until only 30

days remained, then request continuances himself until he saw that the trial court had no available trial dates within the next 30 days. At that point, the defendant could request trial, causing the speedy-trial clock to resume, safe in the knowledge that the court will be unable to try him within the 30 days remaining. In this scenario, neither subsection (c) nor (f) would provide the People a means of preventing dismissal of the charges on speedy-trial grounds. If the People have already gathered all their evidence, then they cannot obtain the additional 60 or 120 days that subsection (c) allows for the limited purpose of gathering material evidence or DNA test results. And because the defendant did not occasion any delay within 21 days of the end of this speedy-trial period, subsection (f) would not apply. Thus, subsections (c) and (f) are not sufficient to prevent gamesmanship by defendants, as would be possible under defendant's interpretation of subsection (a).

2. Defendant is incorrect that the case was set for trial on May 2, 2023, then continued over his objection.

Contrary to defendant's argument, Def. Br. 23-25, the trial court did not set the case for trial on May 2, 2023, such that the July 18, 2023 trial date reflected a continuance of the earlier trial date at the People's request and over defendant's objection. As the trial court expressly stated, trial was never actually set for May 2, 2023. R195-96. Though the parties initially indicated that they could be ready on May 2, 2023, and the court stated its intent to try to find another judge who could try the case on that date, within two hours the People notified the court that their witnesses would be

unavailable on that date due to previously scheduled medical procedures and requested a different date for trial. R169-70, 195-96. The trial court found that these circumstances were not "tantamount to a trial date being set and then a motion to continue," R195-96, but rather a brief break in the proceedings while both parties ensured that they could, in fact, be ready for trial on May 2. And because the People determined after that brief break that they could not be ready on May 2, the trial court did not seek another judge who might be able to try the case on May 2 but instead set the case for trial on the court's next available date of July 18, 2023. Accordingly, the delay until the court's next available date to which defendant had agreed when he sought a continuance without setting the case for trial continued — and the clock remained tolled — until defendant's trial in July 2023. Defendant fails to show that the trial court's finding that it had not set trial for May 2 was so fanciful or arbitrary as to constitute an abuse of discretion. *See Sloan*, 2024 IL 129676, ¶ 15 (trial court only abuses its discretion if its decision is so "arbitrary, fanciful, or unreasonable that no reasonable person would agree").

In any event, defendant's statutory speedy-trial claim would fail even if the trial court *had* set the case for a May 2, 2023 trial, then continued that date at the People's request and over defendant's objection, such that the speedy-trial clock began running on May 2, 2023, because defendant still would have been tried within the 120-day period.

In that hypothetical scenario, the clock ran for 16 days between defendant's arrest on November 10, 2019, and his arraignment on November 26, 2019, R4, 15. The clock was then tolled until March 22, 2022, as defendant repeatedly sought or agreed to continuances. R15-16, 19, 21-23, 25-26, 29-30, 32-33, 37-38, 42, 44-45, 48, 51, 54, 57, 60, 61. The clock remained tolled after March 22, 2022, and resumed on May 3, 2022 (when trial was scheduled to commence), following the People's motion for continuance, which was granted over defendant's objection, R86-88; *see also supra* pp. 14-16. The clock then ran for 31 days, until June 3, 2022, when the clock was tolled again because defendant moved to continue trial. R96-97. At that point, 47 days of the 120-day period had elapsed. If the clock resumed on May 2, 2023, then it ran for 72 days until defendant was tried on July 13, 2023. R202-04. Under this calculation, then, the 120-day period ran for 119 days (16 + 31 + 72 = 119), and defendant's claim that he was tried after the 120-day period expired fails.

3. Defendant's trial would have been timely even under defendant's calculations because the People were entitled to additional time under section 103-5(c).

Even assuming, *arguendo*, that defendant's interpretation of 103-5(a) is correct, and the time between his requests for trial and the resulting trial dates counted against the 120-day period, defendant's trial still would have been timely because the People would have been entitled to additional time to secure the attendance of their material witnesses under section 103-5(c).

Defendant argues that trial occurred 173 days after he was taken into custody. Def. Br. 25. But on April 25, 2023 — the 89th day of the 120-day period, according to defendant — the prosecutor explained to the trial court that the People could not proceed to trial on May 2, 2023, because the victims had informed him that they could not be available in May due to previously planned surgeries. R167-69. If scheduling the trial for the court's next available date of July 18, 2023, would have pushed the trial beyond the 120-day period, then the People would have been entitled to up to 60 additional days — for a total of 180 days after defendant was taken into custody — to ensure that their key witnesses were able to attend trial. *See* 725 ILCS 5/103-5(c); *People v. Lacy*, 2013 IL 113216, ¶ 20 (People entitled to continue trial for up to 60 days beyond 120-day period to obtain testimony of material witness).

Under defendant's theory, the speedy-trial term was set to expire on May 27, 2023. Def. Br. 25. But on April 25, 2023 — more than a month before defendant's speedy-trial term would have expired and within two hours after defendant requested trial — the People confirmed that their witnesses would be unavailable on that date for reasons beyond the People's control. It is thus beyond dispute that the People had clearly "beg[u]n efforts to locate its witness[es] in sufficient time to secure [their] presence before the speedy trial term expired," *Williams*, 2023 IL App (1st) 192463, ¶ 83, as required to obtain an extension under section 103-5(c). And, given the nature

of the witnesses' unavailability — they could not attend due to scheduled surgeries — and the People's confidence that they would be ready for trial in July 2023, there were reasonable grounds to believe that these witnesses would be available to testify at that later date. Indeed, this Court has held that the People were properly granted an extension of the speedy-trial term under materially indistinguishable circumstances, where a material witness was unavailable to testify at the original trial date due to a medical condition but believed she would be available six weeks later. *See People v. Wollenberg*, 37 Ill. 2d 480, 485-87 (1967).

Accordingly, the People would have been entitled to an extension of up to 60 days to secure their material witnesses' testimony at trial, meaning that the scheduled July 18, 2023 trial date, falling fewer than 60 days after the end of the 120-day period under defendant's calculation, was timely.

C. The trial court did not apply a "local rule" subject to Supreme Court Rule 21.

Finally, the trial court did not, by applying section 103-5(a) as written, apply some idiosyncratic local rule adopted in contravention of Supreme Court Rule 21(a), as defendant suggests. *See* Def. Br. 21-23, 28-32. Rule 21(a) permits circuit courts to adopt local rules if they are supported by a majority of the circuit judges, consistent with this Court's rules and Illinois statutes, and "filed with the Administrative Director within ten days" after their adoption. Ill. S. Ct. R. 21(a). As defendant correctly notes, the Vermilion County Circuit Court has no local rule governing speedy-trial

calculations. Def. Br. 30-31; *see also* Rules of Practice for the Fifth Judicial Circuit of Illinois, *available at* https://fifthcircuitil.com/wp-content/uploads/2023/05/Rules-of-Practice-March-2023.pdf (last visited December 16, 2025). Accordingly, unlike *People v. Atou*, 372 Ill. App. 3d 78 (1st Dist. 2007), the trial court here cannot have applied a local rule when it calculated how much time had run on defendant's 120-day speedy-trial period; rather, it exercised its "judicial function of interpreting and applying" section 103-5(a). *Murneigh v. Gaynor*, 177 Ill. 2d 287, 302 (1997).

The trial court's comment that the way in which "felony trial calls are conducted" in Vermilion County had changed over time, R192, does not convert the court's interpretation of a state statute into a local rule. The court explained that the 120-day period begins running when the defendant is taken into custody and then is typically tolled at the arraignment, where the parties usually agree to continue the case. R192-93. If a case is set for trial and the defendant then asks to continue the case for a new trial date, then the 120-day period is tolled until that new trial date. R193-94. But if a defendant asks to continue the case without setting a new trial date, consequently taking the case off the trial call, then the defendant has agreed that he will not be tried until the court's next available trial date, and the 120-day period is tolled until that next available date. R194-95. The trial court's recognition that a defendant who removes his case from the trial call necessarily agrees that he will not be tried before the next available trial date

was not an application of a local rule or custom; it was an application of section 103-5(a), which mandates that delay occasioned by the defendant toll the 120-day period. Accordingly, the trial court's interpretation of the speedy-trial statute and resulting calculation of defendant's speedy-trial term was not subject to Rule 21(a)'s requirements for adoption of local rules.

To the extent there is any discrepancy between the trial judge's interpretation and application of section 103-5(a) here and other trial judges' interpretation and application of section 103-5(a) elsewhere, that discrepancy merely reinforces the need for this Court to provide guidance regarding the proper application of section 103-5(a). This Court's holding that section 103-5(a) operates as it has held in *Cordell* and as the trial court applied it here will resolve that confusion.

CONCLUSION

For these reasons, the People of the State of Illinois respectfully request that this Court affirm the judgment of the appellate court.

December 16, 2025

Respectfully submitted,

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APPENDIX

Calculation of Speedy Trial Period Under Section 103-5(a).

Calculation of Speedy Trial Period Under Section 103-5(a)

Date(s)	Events	Effect on Speedy Trial Clock	Days Toward 120-Day Period
Nov. 10, 2019 – Nov. 26, 2019	Defendant is arrested on Nov. 10, 2019, and arraigned on Nov. 26, 2019, when trial is set for Feb. 18, 2020, without objection.	Speedy trial clock automatically begins to run when defendant is arrested, then runs for 16 days until it is tolled by defendant's agreement to trial date.	16 Days
Feb. 18, 2020 – March 22, 2022	Defendant requests or agrees to continuances.	Speedy trial clock remains tolled.	0 Days
Mar. 22, 2022 – May 3, 2022	Defendant requests trial on Mar. 22, 2022, and agrees to May 3, 2022 trial date.	Speedy trial clock remains tolled.	0 Days
May 3, 2022 – June 3, 2022	Trial is continued over defendant's objection from May 3, 2022, to June 7, 2022. On June 3, 2022, defendant moves to continue case.	Speedy trial clock resumes running on May 3, 2022, and runs for 31 days until June 3, when it is tolled by defendant's request for a continuance.	31 Days
June 3, 2022 – April 25, 2023	Defendant requests or agrees to continuances.	Speedy trial clock remains tolled.	0 Days
April 25, 2023 – July 18, 2023	Defendant requests trial on April 25, 2023, and the court sets trial for the next available trial date of July 18, 2023. Defendant is tried early via stipulated bench trial on July 13, 2023.	Speedy trial clock remains tolled.	0 Days
TOTAL:			**47 Days**

RULE 341(c) CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 33 pages.

/s/ Madeline Callaghan
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CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On December 16, 2025, the foregoing **Brief and Appendix of Plaintiff-Appellee People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the Court's electronic filing system, which provided service to the following:

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