

131608

No. 131608

IN THE
SUPREME COURT OF ILLINOIS

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

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLANT

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NATURE OF THE CASE

Jessie Jackson was convicted of home invasion with a deadly weapon after a bench trial and was sentenced to 18 years in the Department of Corrections and 18 months' mandatory supervised release.

This is a direct appeal from the judgment of the court below. No issue is raised challenging the charging instrument.

ISSUE PRESENTED FOR REVIEW

Whether the Fifth District erred in ratifying Vermilion County's local practice of deciding that the speedy trial clock does not begin to run the day a defendant demands trial, in contravention of the plain language of the Speedy Trial Act and Illinois precedent.

STATUTES AND RULES INVOLVED

725 ILCS 5/103-5 (2023) Speedy trial

- (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 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. The provisions of this subsection (a) do not apply to a person on bail or recognizance for an offense but who is in custody for a violation of his or her parole, or mandatory supervised release for another offense.

The 120-day term must be one continuous period of incarceration. In computing the 120-day term, separate periods of incarceration may not be combined. If a defendant is taken into custody a second (or subsequent) time for the same offense, the term will begin again at day zero.

- (c) If the court determines that the State has exercised without success due diligence to obtain evidence material to the case and that there are reasonable grounds to believe that such evidence may be obtained at a later day the court may continue the cause on application of the State for not more than an additional 60 days. If the court determines that the State has exercised without success due diligence to obtain results of DNA testing that is material to the case and that there are reasonable grounds to believe that such results may be obtained at a later day, the court may continue the cause on application of the State for not more than an additional 120 days.
- (d) Every person not tried in accordance with subsections (a), (b) and (c) of this Section shall be discharged from custody or released from the obligations of his bail or recognizance.

- (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). This subsection (f) shall become effective on, and apply to persons charged with alleged offenses committed on or after, March 1, 1977.

Illinois Supreme Court Rule 21. Circuit Court Rules and Filing of Rules

- (a) Circuit Court Rules. A majority of the circuit judges in each circuit may adopt rules governing civil and criminal cases, including remote appearances, which are consistent with these rules and the statutes of the State, and which, so far as practicable, shall be uniform throughout the State. All rules of court shall be filed with the Administrative Director within 10 days after they are adopted.

STATEMENT OF FACTS

On November 10, 2019, Jessie Jackson was arrested by Danville police for allegedly breaking into the home of Dylan Batsch and threatening him with a weapon. (C. 7). At the time of the incident, there was an active order of protection in place. (R. 8). Jackson was charged with: (1) home invasion with personal discharge of a firearm; (2) home invasion with a firearm; (3) unlawful possession of a weapon by a felon; (4) violation of an order of protection; and (5) domestic battery. (C. 30-33, 41-48). Jackson was arraigned on the grand jury indictment on November 12, 2019. (R. 16). A motion for continuance was made by either the defense or by agreement at the following 17 court dates. (R. 12, 16, 19, 22, 26, 30, 33, 38, 42, 45, 48, 51, 54, 57, 60, 63, 67). Jackson remained in custody throughout pre-trial and trial proceedings. *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 4.

On March 22, 2022, Jackson demanded trial. (R. 71). The trial court set a pretrial date of April 29, 2022, and a trial date of May 3, 2022. (R. 71; C. 78). On April 6, 2022, the State filed a motion *in limine* to admit impeachment evidence, and on April 7, 2022, filed a motion for consumption of DNA samples. (C. 87-89, 91-92). On April 7, the State said that it anticipated filing a motion for continuance to give time for labwork to be completed. (R. 81). The State said it thought both parties were in agreement that “the trial date only about 60 days or so will have a lapse [*sic*] on the speedy-trial term,” and suggested pushing the trial date out another month. (R. 81).

The State indeed filed a motion for continuance based on the outstanding lab results on April 26, 2022, to which the defense objected at the April 29 pre-trial date. (R. 86; C. 105-06). The trial court granted the motion, as it was the State’s first motion for continuance. (R. 86-87; C. 113). After receiving the outstanding

lab results, the defense sought continuances at the following nine court dates. (R. 96, 106, 129, 138, 142, 145, 149, 152, 161; C. 121, 123, 137-38, 140, 146, 148).

Jackson again demanded trial on April 25, 2023. (R. 173). The court initially set a trial date of May 2, 2023, and both parties stated on the record that they would be ready for trial on that date. (R. 173-74; C. 154). Jackson's case was recalled approximately two hours later because the State wanted to reschedule that trial date. (R. 176-77). In doing so, the State referenced the August 11, 2022, court date in which Jackson fired his first private attorney. (R. 177). According to the State, there was a ruling on August 11, 2022, that "any settings of future dates would be on the defense motion, which would mean the speedy trial demand clock would not start until the next future trial date which gets set." (R. 177-78). Neither the August 11, 2022, transcript nor any of the court documents filed on August 11, 2022, reflect such a ruling. (R. 133-39; C. 137-39). The State asked for a date in July and the defense objected, stating that the speedy trial deadline would run on May 27, 2023. (R. 169). The judge set the trial for July 18, 2023, over the objection of the defense. (R. 170).

Motion for Discharge

The defense filed a motion for discharge on June 5, 2023, arguing that Jackson's speedy trial term had elapsed. (C. 160-62). In its response, the State cited *People v. Majors*, 308 Ill. App. 3d 1021 (4th Dist. 1999), arguing that, once a case is continued from a jury trial date, any subsequent speedy trial demand does not restart the speedy trial clock until the next set trial date. (R. 191-92; C. 156-57). Defense counsel disagreed with that reading of *Majors*, and added that, even under that reading, the case had already been set for a jury trial on the May 2 court date, starting the speedy trial clock again. (R. 188-91; C. 161).

The trial court began its ruling by noting that Vermilion County had had “at least three or four different systems” for dealing with speedy trial calculations since that judge “had been an attorney or judge in this county.” (R. 192). Under the current system, the trial court explained, the speedy trial term for an in-custody defendant “. . . starts and continues for speedy trial determination, continues until either preliminary or felony arraignment . . . traditionally both parties agree to [the] matter being continued to a pretrial date, which tolls the time.” (R. 192-93). At that point, the court explained, a case is set for a pretrial or status date, and is placed on a trial call when the defendant demands trial. (R. 193). According to the court, once a case has been set for trial, if defense counsel “. . . asks to go back on the pretrial call,” where the speedy trial period “. . . is still tolled until it gets put back on a trial date, that next trial date. Not – it doesn’t start again at that pretrial date. They ask for their next trial. It starts when we get to the next trial.” (R. 194). In other words, if a defendant demands trial a second time after having filed a continuance, then the speedy trial clock does not begin running again until the next scheduled trial date.

Based on this practice, the trial court reasoned that Jackson’s speedy trial term did *not* begin to run again on April 25, 2023, when Jackson again demanded a speedy trial. (R. 194). Instead, it began to run again on the next set trial date. (R. 194). The question in the trial court’s mind therefore became whether the next scheduled trial date was May 2, the date the parties had initially agreed upon, or July 18, the date set after the case was recalled on the State’s request. (R. 194-95). Noting that the case was recalled “within a couple of hours” after the parties selected May 2, the court ultimately decided that this situation was not tantamount to a trial date being set and the State filing a motion to continue. (R. 195-96). Under

this analysis, the speedy trial term thus had not run, so the trial court denied the motion to discharge Jackson. (R. 196).

On June 29, 2023, the State filed an amended information. (C. 190). The amended information had the same seven counts against Jackson as had been initially filed, and added an eighth count of home invasion with a deadly weapon. (C. 190-93).

Stipulated Bench Trial

On July 13, 2023, Jackson and trial counsel agreed to proceed to a stipulated bench trial to preserve the speedy trial issue. (R. 203). The State dismissed counts 1 through 7, leaving only the remaining count of home invasion with a deadly weapon. (R. 206).

Both parties stipulated that Officer Swisher would identify Jackson. (R. 207). Further, Dylan Batsch would testify that Jackson entered the home after being denied access, and that Jackson threatened Batsch with imminent force with a metal bludgeon. (R. 207). Finally, Jennifer Sigler, Batsch's mother, would testify that the home was her residence and that Jackson did not live in the home at the time of the incident. (R. 207). The defense did not agree that these stipulations were sufficient evidence to convict Jackson. (R. 207).

After hearing the stipulations, the trial court found Jackson guilty of home invasion with a deadly weapon. (R. 208). The court moved immediately to sentencing, with both parties orally stating that they would waive a presentence investigation report (PSI). (R. 208-09). When the court asked about waiving a PSI, the court asked defense counsel, but did not address Jackson himself. (R. 209). The trial court then sentenced Jackson to 18 years' imprisonment in the Illinois Department of Corrections. (R. 209; C. 204).

Direct Appeal

Jackson appealed his conviction, arguing: (1) the trial court improperly denied his motion to dismiss for a violation of Jackson's right to a speedy trial; and (2) the trial court improperly sentenced Jackson without a PSI or finding of his criminal history on the record, violating the Illinois Code of Corrections. *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 2.

The Fifth District stated that the outcome of the speedy-trial dispute was “dependent upon when the State’s clock beg[an] running again following a defense continuance to a date other than a trial setting.” *Id.*, ¶ 25. Finding *People v. Majors*, 308 Ill. App. 3d 1021 (4th Dist. 1999), instructive, the appellate court found Jackson’s “repeated continuances” to be a delay occasioned by the defendant, and noted the potential for abuse when defendants ask for or agree to continuances to a status date without setting a specific trial date. *Jackson*, 2025 IL App (5th) 230504-U, ¶¶ 30, 31. It did not find Vermilion County’s practice of “tolling the clock from the date of a defendant’s continuance to the next trial setting” to be a “substantial burden,” because a defendant “need only announce” to the trial court that they are ready to proceed to trial. *Id.*, ¶ 33. Therefore, the appellate court did not find Vermilion County’s practice to run afoul of Illinois Supreme Court Rule 21(a) by abrogating, limiting, or modifying 725 ILCS 5/103-5(a). *Id.*, ¶ 35.

The appellate court determined that the May 2 trial date was “of little import,” stating that the trial court had “specifically found that the two-hour period that it took for the State to realize that it could not be ready for trial on May 2 did not start the clock running again.” *Id.* With no further explanation, the appellate court reasoned that the trial court’s decision was not an abuse of discretion. *Id.*

The Fifth District went further and addressed the period from March 22,

2022, when Jackson first demanded speedy trial, to April 29, 2022, when the State moved to continue. *Id.*, ¶ 36. Without further explanation, the Fifth District stated that, “[a]pplying the rationale of *Majors*,” Jackson was responsible for the delay until the State moved to continue on April 29, and therefore stated, “it is even clearer that the State did not violate defendant’s statutory speedy trial right.” *Id.* Therefore, according to the appellate court, the speedy trial clock does not begin to run at a defendant’s demand for trial, but on the next trial date or State’s continuance.

The court did, however, vacate Jackson’s sentence, finding that the trial court had not complied with section 5-3-1 of the Unified Code of Corrections when it sentenced Jackson without a PSI or finding on the record concerning his criminal history. *Id.*, ¶ 43.

This Court granted leave to appeal on May 28, 2025.

ARGUMENT

The Fifth District erred in determining that Vermilion County's local practice of waiting until the trial date for the speedy trial clock to begin is not a substantial burden and that the speedy trial clock does not begin to run the day a defendant demands trial.

Jessie Jackson demanded speedy trial on two occasions: first on March 22, 2022, and again on April 25, 2023; on both dates, the speedy trial clock resumed running. In ruling on Jackson's motion to dismiss, the trial court improperly held that, on Jackson's second demand for trial, the speedy trial clock did not begin running until the trial date that the parties selected on April 25, 2023, rather than the date he demanded trial. On appeal, the Fifth District agreed with the trial court's ruling, in addition to determining that the speedy trial clock did not begin running on March 22, 2022, when Jackson first demanded speedy trial. *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶¶ 35-36. The Fifth District's decision ignores the fact that the Speedy Trial Act begins the speedy trial clock on the day a defendant demands trial, meaning this decision creates different speedy trial calculations throughout the state. The Fifth District erred in upholding the trial court's decision to deny Jackson's motion to discharge, and this Court should overturn Jackson's conviction and dismiss the charges against him.

Defendants have both a constitutional and a statutory right to a speedy trial. *People v. Reimolds*, 92 Ill. 2d 101, 106 (1982); U.S. Const. amends. VI, XIV; Ill. Const. 1970, art. I, § 8; 725 ILCS 5/103-5(a) (2023). Because they implemented a constitutional right, the speedy trial provisions are liberally construed in the defendant's favor. *People v. Janusz*, 2020 IL App (2d) 190017, ¶ 56. The trial court's decision to attribute a speedy trial delay to the defendant is reviewed for an abuse of discretion. *People v. Kliner*, 185 Ill. 2d 81, 115 (1998). However, whether a

defendant's statutory right to a speedy trial was violated is reviewed *de novo*. *People v. Pettis*, 2017 IL App (4th) 151006, ¶ 17.

According to the Speedy Trial Act (“the Act”), “[e]very 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 was taken into custody unless delay is occasioned by the defendant.” 725 ILCS 5/103-5(a). If a defendant is in custody, the 120-day statutory period begins to run automatically. *People v. Woodrum*, 223 Ill. 2d 286, 299 (2006). “The speedy trial term is computed by excluding the first day and including the last, unless the last day is a Sunday or a holiday, in which case it is also excluded.” *People v. LaFaire*, 37 Ill. App. 3d 461, 463 (3d Dist. 2007). Any delay occasioned by the defendant within this term will suspend or toll the term for the time of the delay. 725 ILCS 5/103-5(f) (2023); *Woodrum*, 223 Ill. 2d at 299; *People v. Sojak*, 273 Ill. App. 3d 579, 582 (1st Dist. 1995). That delay ends, and the speedy trial clock resumes, when the delay expires. 725 ILCS 5/103-5(f).

The Act states that “[d]elay 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). However, the State is generally responsible for delays caused by crowded dockets or the court's schedule, *People v. Schmidt*, 233 Ill. App. 3d 512, 516 (3d Dist. 1992); *People v. Mooney*, 2019 IL App (3d) 150607, ¶ 23 (*overruled on other grounds*), or a court direction to defense counsel to pick a date to continue the case. *People v. Beyah*, 67 Ill. 2d 423, 427-29 (1977). If defense counsel needs time to respond to a belated State action, the delay may also be attributed to the State. *People v. Perkins*, 90 Ill. App. 3d 975, 980 (1st Dist. 1980); *see also People v. Cross*, 2022 IL 127907, ¶¶ 25-27. Each case is decided on its own facts. *Reimolds*, 92 Ill. 2d at 106. If a

person is not tried within the statutory speedy trial term, that person shall be discharged from custody and the charges must be dismissed. 725 ILCS 5/103-5(d) (2023); *Woodrum*, 223 Ill. 2d at 299; *People v. Hunter*, 2013 IL 114100, ¶ 10.

A. The clear, plain language of the Speedy Trial Act states that the speedy trial clock begins to run upon a defendant demanding trial.

The plain language of the Act dictates that the speedy trial clock resumes when a defendant demands trial, rather than at the following trial date. When determining the meaning of a statute, courts are charged with ascertaining and giving effect to the intent of the legislature. *People v. Lloyd*, 2013 IL 113510, ¶ 25. “The best means of accomplishing this objective is through the statutory language itself, given its plain and ordinary meaning.” *People v. Clark*, 2024 IL 130364, ¶ 15. “We will not depart from the plain meaning of a statute by reading into its exceptions, limitations, or conditions that conflict with the express legislative intent.” *People v. Hickman*, 163 Ill. 2d 250, 261 (1994); *see also People v. Murdock*, 321 Ill. App. 3d 175, 177 (2d Dist. 2001) (courts are “not free to rewrite the language of the legislature, which speaks for itself”). When the statute is clear and unambiguous, it will be applied as written without resorting to aids of statutory construction. *People v. Davidson*, 2023 IL 127538, ¶ 14.

To ascertain intent, a court must view the statute as a whole, construing words and phrases in light of other revelatory statutory provisions and not in isolation. *People v. Michael Jackson*, 2011 IL 110615, ¶ 12. Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous. *Williams v. Staples*, 208 Ill. 2d 480, 487 (2004). The reviewing court should not read words or meanings into a statute when the legislature has chosen not to include them. *People v. Johnson*, 2013 IL 114639,

¶ 12. “[W]e are to give the statutory language the fullest, rather than the narrowest, possible meaning to which it is susceptible.” *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 279 (2003). Additionally, criminal statutes should be “strictly construed in favor of the accused and nothing should be taken by intendment or implication beyond the obvious or literal meaning of the statute.” *People v Shinkle*, 128 Ill. 2d 480, 486 (1989).

The plain and ordinary meaning of the Act’s language demonstrates that the speedy trial clock begins running when a defendant demands trial, regardless of whether or not they had previously obtained or agreed to a continuance. Under the Act, a defendant in custody shall be tried within 120 days, unless that delay is occasioned by the defendant, and that delay is not agreed to by the defendant if he or she objects by making a written or oral demand for trial. 725 ILCS 103-5(a). Subsection (f) of the Act provides that a delay occasioned by the defendant stops the clock temporarily and that “*on the day of expiration of the delay* the said period shall continue.” 725 ILCS 103-5(f) (emphasis added). The obvious meaning of this would indicate that the speedy trial period begins again upon demanding trial, when the defendant’s delay ends. *See Shinkle*, 128 Ill. 2d at 486. Nothing in the Act provides that the clock only restarts on a subsequent date. Despite this plain language of the Act, the Fifth District concluded that, when a defendant causes delay by requesting a continuance, that delay does not expire upon a demand for trial, but at the next set trial date. *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 35. The Fifth District’s reasoning reads words into the Act that simply are not there, and goes against the obvious meaning of the statute. *Johnson*, 2013 IL 114639, ¶ 12; *Shinkle*, 128 Ill. 2d at 486. As laid out below, case after case has shown that the delay caused by a defendant ends on the day that the defendant demands

trial – the delay does not continue until the scheduled trial date following the defendant’s demand. To read the Act as such goes against the plain and ordinary language of the Act.

B. This Court has long established that the speedy trial clock begins to run when the defendant demands trial – nothing in the speedy trial statute says otherwise.

Consistent with the plain language of the Act, this Court has long held that the speedy trial clock begins running when a defendant demands trial. In fact, this Court explicitly stated as much in 1942, saying that a “defendant’s right to [speedy trial] accrued *at the time of the first demand.*” *People v. Hannon*, 381 Ill. 206, 208 (1942) (emphasis added). While the Act has been amended in the 83 years since that decision, none of those amendments undermined or refuted *Hannon*. See *People v. Agnew*, 105 Ill. 2d 275, 280 (1985) (“[W]hen the legislature amends a statute, but leaves unchanged portions which have been judicially construed, the unchanged portion will retain the construction given prior to the amendment.”). This Court has never stated that demanding trial does not immediately begin the speedy trial period. In contrast, numerous recent decisions from this Court have used this method to calculate the speedy trial term.

In *People v. Cross*, 2022 IL 127907, ¶ 6, for instance, the defendant demanded trial on July 16, 2018; based on that demand, the parties selected a September 24, 2018, trial date. On August 21, 2018, the defendant filed a supplemental disclosure of an alibi defense. *Id.*, ¶ 7. This Court determined that the trial court did not err in determining that the period of August 21, 2018, to September 24, 2018, was attributable to the defendant based on that late alibi disclosure. *Id.*, ¶ 25. Critically, this Court’s calculation in *Cross* still attributed the period of July 16, 2018, the date the defendant demanded trial, to August 21, 2018, the date

the defendant disclosed the alibi defense, to the State. *Id.* Under this analysis of the Act, the speedy trial clock begins to run once a defendant demands trial. That result was consistent with 725 ILCS 5/103-5(f), providing that after a defense delay expires – in this case, when the defendant demanded trial – the speedy trial clock begins again.

This Court was more explicit in *People v. Van Schoyck*, 232 Ill. 2d 330, 340 (2009). There, this Court said, “defendant filed his written demand for a speedy trial on December 14, 2004, and the 160-day period was thus set to expire on May 23, 2005.” *Van Schoyck*, 232 Ill. 2d at 340. While *Van Schoyck* applied to a defendant who was not incarcerated before trial, meaning the speedy trial clock ran for 160 days instead of 120, the sentiment that the clock begins to run when the defendant demands trial still applies. While the length in term changes based on whether a defendant is detained, as in this case, or out on bail or recognizance, the calculation of the speedy trial term is the same. Therefore, the Court’s statement in *Van Schoyck* indicating that the speedy trial term would expire 160 days after the defendant demanded trial would indicate that, for a defendant in custody, the speedy trial term would expire 120 days after the defendant demanded trial.

Similarly, in *People v. Quigley*, 183 Ill. 2d 1, 12 (1998), this Court said, “[i]f the charges are required to be brought in a single prosecution, *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 12 (emphasis added). While *Quigley* dealt with the Act in regards to compulsory joinder, there is no reason to believe that the beginning of the speedy trial period would occur at a different time for cases where compulsory joinder did not apply. This exact sentence was quoted by this Court in 2003 in *People v. Williams*, 204 Ill. 2d 191, 200 (2003),

and this Court cited *Quigley* in *People v. Rogers*, 2021 IL 126163, ¶ 30, a case involving speedy trial. In neither instance did this Court re-read its language in *Quigley* and see an issue with it defining the beginning of the speedy trial period as when the defendant demanded trial. This Court, therefore still stands by that definition.

The Fifth District itself has considered a demand for trial to be the start of the speedy trial clock. In *People v. Meyer*, 294 Ill. App. 3d 954, 955 (5th Dist. 1998) (*abrogated on other grounds*), the Fifth District considered whether a defendant's right to speedy trial was violated. The defendant in *Meyer* was out on bail when he demanded trial, and therefore had a speedy trial period of 160 days, instead of 120. *Meyer*, 294 Ill. App. 3d at 955. The defendant was released on the same day he was arrested. *Id.* He demanded trial on October 24, 1994. *Id.* On April 24, 1995, defendant filed a motion to dismiss on the basis that the State had violated the speedy trial provisions by failing to bring him to trial within 160 days of his trial demand. *Id.* The trial court ultimately denied the defendant's motion, not because the speedy trial clock had not run, but because the defendant's demand for trial did not comply with the provisions of the Act at the time, or with local rule 7.04 of the Rules of Practice for the Twentieth Judicial Circuit. *Id.* at 955, 957.

In *Meyer*, no days had run against the speedy trial clock before the defendant's demand, because he had been released from custody the same day as his arrest. *Id.* at 955. Therefore, the only time that would count toward the speedy trial clock would be days that occurred after the defendant demanded trial. No court dates were noted in the opinion between October 24, the defendant's demand for trial, and April 24, the defendant's filing of the motion to dismiss, because no court date

occurred that impacted the calculation of the speedy trial period. April 24 is 182 days after October 24, which is greater than the statutorily-required 160 days for a defendant out on bond or recognizance. The Fifth District ruled against the defendant not because the speedy trial period was insufficient, but because the speedy trial term failed to begin running *at all* due to the defendant's failure to make a clear and unequivocal demand. *Id.* at 957. If it was not possible for the speedy trial term to have run, the court would not need to address the question of whether the defendant had sufficiently demanded trial. Logically, then, this Court should presume that, had the defendant made a sufficient demand for trial, the 160-day period would have begun the day of the demand, as the *Meyer* decision listed no other day of note for the period to have potentially begun.

The other four appellate districts have also followed the Illinois Supreme Court in beginning the speedy trial clock upon a defendant demanding trial. *See People v. Andrade*, 279 Ill. App. 3d 292, 295 (1st Dist. 1996) (finding that the speedy trial clock began to run when the defendant demanded trial, stating, “[b]y agreement, the case was continued until January 30, 1991, at which time defendant demanded trial. The case was again continued at the State’s request until March 26. This constituted 55 days.”); *People v. Golden*, 2021 IL App (2d) 200207, ¶ 97 (“Defendant did not file a motion to dismiss based on a speedy-trial violation, precisely because he never made a proper demand for trial *that would have triggered the speedy-trial term.*” (emphasis added)) (*overruled on other grounds*); *People v. Dismuke*, 2013 IL App (2d) 120925, ¶ 14 (“Defendant’s written demand for trial in the cannabis case *commenced the applicable 160-day speedy-trial period.*” (emphasis added)); *People v. Smith*, 2016 IL App (3d) 140235, ¶ 5 (“defendant was required to make a speedy trial demand *in order to start the speedy trial clock.*” (emphasis added))

(*overruled on other grounds*); *People v. Keys*, 2023 IL App (4th) 210630, ¶ 92 (“Once a defendant files a speedy-trial demand, even if the State brings some of the charges later, *the speedy-trial period begins to run* on all of the charges when the demand is filed.” (emphasis added)).

C. The trial court and appellate court’s reliance on *People v. Majors* is misplaced, as both courts ignored a crucial factual distinction.

People v. Majors, 308 Ill. App. 3d 1021 (4th Dist. 1999), the case on which both lower courts relied, did not justify the appellate and trial courts’ decisions. *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 28; (R. 192-96). Both courts relied on *Majors* while ignoring that it was factually distinct from this case.

In *Majors*, 308 Ill. App. 3d at 1026, a trial date was already set after the defendant demanded trial when, approximately two weeks before the trial date, the defendant asked for a continuance without requesting a specific date for trial. When the trial court addressed the issue of speedy trial, defense counsel explicitly said they were willing to stipulate to the parties’ understanding that the speedy trial term be tolled until a new date was set. *Id.* The prosecution agreed and the trial court stated on the record that, from that date until the new trial date, the defendant would be giving up the right to insist upon a speedy trial. *Id.* at 1027. At a subsequent court date, the defendant attempted to reassert his right to a speedy trial. *Id.* The trial court set a date outside of the speedy trial term, according to the defendant, and the defendant appealed. *Id.* at 1028. The court in *Majors* determined that the defendant had “intelligently and knowingly” waived his right to a speedy trial when moving for a continuance before the previously set trial date. *Id.* at 1028. Further, the court held that, where the defendant moved for a continuance without setting a trial date, all of the time between the motion for

a continuance to the next set trial date was attributable to the defendant. *Id.* at 1028.

The Fifth District read the holding of *Majors* too broadly, and the actual holding of *Majors* does not apply to this case. First, the Fifth District ignored the critical fact that the defendant in *Majors* had *explicitly stipulated* that, if he sought a continuance, the speedy trial term would be tolled until a new trial date was set. *Id.* at 1026. After discussing this stipulation with both parties, the trial court in *Majors* stated, “it is apparently the shared understanding of counsel, . . . , that from today’s date until the new trial date, *you would be giving up the right to insist on a speedy trial.*” *Id.* at 1027 (emphasis added). After having heard the trial court make this statement, the defendant agreed on the record. *Id.*

While the *Majors* court affirmed the trial court’s decision to deny the defendant’s motion to dismiss, it did so *because* the defendant stipulated that the speedy trial clock would toll. *Majors* found that the defendant unequivocally agreed that he would be giving up the right to a speedy trial, and then attempted to withdraw this agreement by demanding trial. *Id.* at 1028. The court stated that granting a defendant the right to waive the right to a speedy trial and then unilaterally halt the tolling of the speedy trial clock had great potential for abuse, giving the following example:

If such a right were to exist, a defendant with two days left on the speedy trial clock could move for an open-ended continuance, *agree that the speedy trial clock would be tolled until the rescheduled date of his trial*, and then at any subsequent time simply change his mind and insist on being tried on two days’ notice.

Id. (emphasis added). *Majors* thus determined that a defendant cannot assert their right to a speedy trial after having a continuance granted on the basis of

the defendant agreeing that their speedy trial term would be tolled. *Id.* The defendant's explicit, on-the-record stipulation in *Majors* was key to the Fourth District's reasoning in its decision.

In contrast, Jackson did not agree to toll the speedy trial clock at any point in time. While the State at one point claimed that the trial court had ruled that "any setting of future dates would be on the defense motion," meaning "the speedy trial demand clock would not start until the next future trial date," this ruling does not appear anywhere in the record. (R. 133-39 C. 137-39); *Jackson*, 2025 IL App (5th) 230504-U, fn. 1. *Majors* asked whether the speedy trial clock began counting after a defendant filed a continuance and *explicitly agreed* it would not begin running until the next trial date, something that simply did not occur in this case. Instead, the Fifth District misread *Majors*'s holding to apply where it simply does not, and then stretched that holding to apply to *any* demand for trial, regardless of whether the defendant had demanded trial before. This is simply incorrect. By demanding trial, a defendant is asserting that he is ready for trial and no longer desires any further delay. *See People v. Cordell*, 223 Ill. 2d 380, 391 (2006) (defendant must object to any delay of trial outside the speedy trial period, even if defendant has already demanded trial, for the delay to be attributed to the State). As such, the speedy trial clock began running on March 22, 2022, when Jackson first demanded trial, and again on April 25, 2023, when Jackson reasserted his right to a speedy trial.

D. The Fifth District's interpretation of the Act allows for absurd and disparate results between counties that will create potential equal protection or due process issues.

If a statute is ambiguous – which the Act is not – a reviewing court has a duty to construe it in a manner that upholds its validity and constitutionality

whenever possible. *People v. Malchow*, 193 Ill. 2d 413, 418 (2000). Vermilion County's approach to calculating the speedy trial term raises potential equal protection or due process issues. *See People v. Whitfield*, 228 Ill. 2d 502, 512 (2007) (similarly situated individuals will be treated in a similar fashion unless the government can demonstrate an appropriate reason to treat them differently). Most obviously, this method of calculating the speedy trial period is specific to Vermilion County, which means that two defendants within the state of Illinois could have parallel court dates, which would result in different calculations of the speedy trial period purely because one defendant is tried in Vermilion County, while the other is being tried in one of Illinois's 101 other counties. In fact, the judge in this case admitted that Vermilion County had used multiple different calculation systems throughout his time practicing in that county, indicating that a discrepancy in speedy trial calculations could have occurred within Vermilion County itself. (R. 192).

Take this example: Samuel in Sangamon County and Victor in Vermilion County are both arrested on January 1. They remain in custody throughout the entirety of their proceedings, and are each arraigned on January 17, when both of their attorneys agree to a continuance. On March 1, both defendants demand trial, and their trial is set for April 8. On April 8, the State in each case files a continuance, because the State is awaiting the receipt of additional evidence. On May 13, both Samuel and Victor receive the new evidence, and both file a continuance to prepare their defense incorporating this newly received evidence. Both Samuel and Victor demand trial on September 1, and receive a trial date of November 24. Both object to this trial date, arguing it is outside of the speedy trial period.

Samuel in Sangamon County is correct – the clock began running on both

March 1 and September 1 when he demanded trial, and this November 24 trial date is outside of the 120-day speedy trial period. According to the Fifth District, however, Victor in Vermilion is not. Victor's speedy trial clock did not begin running on March 1 *or* September 1, the two dates he demanded trial, but instead on April 8 and November 24, the dates his case had been set for trial after those demands. Because of this, Samuel's motion to dismiss will be granted, while Victor's will not, based solely on the county in which he is being tried, despite having identical paths in court. These two identical-yet-different paths are laid out in the following table:

Date	Event	Samuel in Sangamon	Victor in Vermilion
Jan 1	Arrest	Clock starts	Clock starts
Jan 17	Arraignment; defense continuance	Clock tolls 16 days to State	Clock tolls 16 days to State
March 1	Demand and set trial date	Clock starts	
April 8	Date set for trial; State continuance		Clock starts
May 13	Defense continuance	Clock tolls 73 days to State	Clock tolls 35 days to State
Sept 1	Demands trial	Clock starts	
Nov 24	Trial Date	Trial after speedy trial period elapsed 84 days to State	Clock "starts" 0 additional days to State
	Total days attributable to State	173 days attributed to State	only 51 days attributed to State

It is of note that the factual scenario for both Samuel in Sangamon and Victor in Vermilion, down to the number of days between court dates of importance, are parallel to the fact pattern in this case.

A court presumes that the “legislature did not intend to cause absurd, inconvenient, or unjust results.” *People v. Garcia*, 241 Ill. 2d 416, 421 (2011). However, the disparate results of Samuel in Sangamon and Victor in Vermilion are simply absurd, inconvenient, *and* unjust. Not only does this method create varying results from identical scenarios, but it creates confusion for attorneys who practice in multiple counties and for higher courts reviewing a statewide statute through a county-based lens. It is clear that the legislature did not intend to create such chaos when it passed the Act, and instead intended to create a single, uniform system of calculating the speedy trial period. *See Garcia*, 241 Ill. 2d at 426; *People v. Lewis*, 234 Ill. 2d 32, 44 (2009) (reviewing court may presume that the legislature did not intend to cause absurd results). Indeed, this Court has emphasized the desirability of uniformity between circuit courts where possible. *See Ill. S. Ct. R. 21*; Argument I.F, *infra*.

Further, it is an absurd reading of the Act to assert that the speedy trial clock does not begin running *until the selected trial date*. Rather than reading the Act “in favor of the defendant,” as required, *People v. Shinkle*, 128 Ill. 2d 480, 486 (1989), this reading construes in a way that removes any protection defendants have from the Act. While the “responsibility for delays caused by crowded dockets rests with the State and not the defendant,” *People v. Wiegand*, 183 Ill. App. 3d 216, 218 (3d Dist. 1989), the Fifth District’s reasoning effectively determines otherwise.

In this case, Jackson’s case was initially set for May 2, 2023, but the State requested the trial be rescheduled. (R. 166-67). Because of a crowded docket, the next available trial date was not until July 18, 2023. (R. 170). This 77 day delay, according to the Fifth District, is fully Jackson’s responsibility, rather than the

State's. *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 35. This is despite the fact that Jackson demanded trial in April and the State requested trial be rescheduled into July, knowing that the defense believed the speedy trial period would run at the end of May. (R. 168-69). Under the Fifth District's understanding of the Act, a defendant could demand trial, and the State could suggest any date in the future, no matter how far out, and *none* of that time would count toward the 120-day deadline required by the Act, as the speedy trial clock would not begin counting until that far-off trial date. Not only is this reading absurd, but it goes against the spirit of the Act by reading the Act in favor of the State, rather than the defendant.

E. The Fifth District miscalculated the speedy trial term in this case, and Jackson was tried beyond the statutorily required 120-day limit.

There is one correct calculation of the speedy trial period in this case. Jackson was arrested on November 10, 2019, and was in custody through his arraignment on November 26, 2019; in fact, he remained in custody throughout pre-trial and trial proceedings. (C. 7; R. 15). The 16 days from arrest to arraignment are attributable to the State. All of the court dates after November 26, 2019, were by agreement or were attributable to the defense until Jackson demanded trial on March 22, 2022, when the speedy trial clock began to run again. (R. 12, 16, 19, 22, 26, 30, 33, 38, 42, 45, 48, 51, 54, 57, 60, 63, 67, 71). The State filed a motion *in limine* and a motion to consume DNA samples at the following two court dates. (C. 87-89, 91, 100; R. 79). Further, the State filed a motion for continuance on April 29, 2022, which was granted over the defense's objection. (R. 91-92; C. 105). Trial was set for June 7, 2022, but on June 3, 2022, the defense moved for a continuance in order to examine the new evidence tendered by the State from

its previous motions. (R. 87-97). Thus, Jackson argued, the speedy trial term ran from March 22, 2022, the date Jackson first demanded trial, to June 3, 2022, when he moved to continue, for a total of 73 days, in addition to the 16 days from November 2019.

Jackson again demanded speedy trial on April 25, 2023, which restarted the speedy trial clock. (R. 164). Jackson's trial attorney stated on the record that she calculated 32 days remaining in Jackson's speedy trial term. (R. 164). The State did not object to this calculation before agreeing to a May 2, 2023, trial date. (R. 164-67). A few hours later, the State asked for Jackson's case to be recalled, and then asked to reschedule trial for July 18, 2023. (R. 169). Because this date was outside of the speedy trial term, the defense objected. (R. 169). The speedy trial term had expired by the time the defense filed its motion for discharge on June 5, 2023, and the trial court improperly denied the motion. (C. 160-62; R. 196).

In summary, the following dates were attributable to the State:

- (1) November 10, 2019 (arrest) to November 26, 2019 (arraignment) (16 days);
- (2) March 22, 2022 (first trial demand) to June 3, 2022 (defense continuance) (73 days), which includes the State's continuance on April 29, 2022; and
- (3) April 25, 2023 (second trial demand) to July 18, 2023 (stipulated bench trial) (84 days), which includes the first agreed-upon date of May 2 for Jackson's trial.

This results in a total of 173 days attributable by the State, which is greater than the Act allows.

The trial court did not explicitly address the period from March 22, 2022, when Jackson first demanded trial, to April 29, 2022, when the State moved to

continue. Relying on *People v. Majors*, 308 Ill. App. 3d 1021 (4th Dist. 1999), the trial court determined that the speedy trial clock did not begin to run on April 25, 2023, when Jackson demanded trial for a second time, but instead only began to run again on the next scheduled trial date: July 18, 2023. (R. 194-95).

The Fifth District agreed with this reasoning, stating that “it is appropriate for a trial court to attribute delay based upon a defendant’s continuance from the date of the continuance to the next trial setting.” *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 33. However, the Fifth District went even further and determined that the rationale of *Majors* also applied to the 38-day delay from March 22, 2022, when Jackson first demanded trial, to April 29, 2022, when the State filed a continuance. *Id.*, ¶ 36. Therefore, the Fifth District only counted the following dates as attributable to the State:

- (1) November 10, 2019 (arrest) to November 26, 2019 (arraignment) (16 days); and
- (2) April 29, 2022 (State’s continuance) to June 3, 2022 (defense continuance) (35 days).

This calculation attributed a total of 51 days to the State.

The appellate court’s calculations were incorrect. As laid out below, the following critical dates occurred:

Date	Event	Attributable to	Court’s Error
11/10/19	Arrest	State (clock starts)	
11/26/19	Arraignment; defense continuance	Jackson (16 days)	
3/22/22	Demands Trial	State (clock starts)	Attributes to Jackson
4/29/22	State’s continuance over objection	State	

Date	Event	Attributable to	Court's Error
6/3/22	Defense continuance	Jackson (73 days)	
4/25/23	Demands Trial	State (clock starts)	Attributes to Jackson
5/2/23	Initial Trial Date	State	Attributes to Jackson
7/18/23	Stipulated Bench Trial	Trial after speedy trial period elapsed (84 days)	
	Total days attributable to the State	173 days	Only attributes 51 days

When the trial court was explaining its decision to deny the defense's motion for discharge, it focused on the hearing of April 25, 2023, when Jackson demanded trial a second time. (R 194). The trial court determined that the speedy trial clock did not begin to run that day, but instead resumed running on the next set trial date. (R. 194). Therefore, to the trial court, the main question became whether or not that next trial date was May 2, 2023, the date both parties had initially agreed to, or July 18, 2023, the date decided after the State asked to recall the case two hours later. (R. 194-95). This is because the trial court believed the speedy trial clock did not begin running again until the next set trial date, so the question was whether the May 2, 2023, date constituted setting a trial date. This issue, however, is a red herring. It does not matter whether or not the two-hour setting of the May trial date amounted to a trial date being set, because regardless, the clock began to run on April 25, 2023, when Jackson demanded trial.

Nevertheless, asking for a continuance after having already demanded trial does not change the fact that the speedy trial clock resumes running upon a defendant's demand for trial. Section (f) of the Act states that, "on the day of

expiration of the delay the said period shall continue at the point at which it was suspended” – that expiration of delay is when the defendant demands trial, not the date that the trial is set. 725 ILCS 103-5(f). By changing when the speedy trial clock begins to run based on whether or not a defendant has filed a continuance, the Fifth District impermissibly adds language to the statute. *People v. Johnson*, 2013 IL 114639, ¶ 12. Nothing in the Act suggests that the “day of expiration of the delay” changes based on whether or not a defendant has filed a continuance prior to demanding trial.

The Fifth District’s reasoning, however, did not only apply to situations where a defendant had demanded trial, filed a continuance, and then demanded trial again. The Fifth District took its understanding of *Majors* and stretched it to apply to *every* instance a defendant demands trial, which would mean that the speedy trial clock does not begin running until the next set trial date. *Jackson*, 2025 IL App (5th) 230504-U, ¶ 36. This is an absurd reading of the Act, and completely changes how the speedy trial period has been counted throughout the history of the Act. And, as noted *supra*, the Fifth District’s reasoning means that otherwise identical defendants will face different speedy trial calculations based on the county in which they are prosecuted. The Fifth District’s calculation of the speedy trial term in this case is simply incorrect.

F. Illinois Supreme Court Rule 21(a) prohibits Vermilion County’s county-specific rule, both substantively and procedurally.

Vermilion County’s local approach to the speedy trial clock is at odds with Supreme Court 21(a), and adds an additional burden to defendants that does not apply in other counties. Illinois Supreme Court Rule 21(a) authorizes circuit courts to adopt local rules governing criminal and civil cases, provided they do not conflict

with supreme court rules or statutes, and so far as practical, they are uniform throughout the state. *Phalen v. Groeteke*, 293 Ill. App. 3d 469, 470 (3d Dist. 1997). These local rules may not “abrogate, limit or modify existing law,” and must not place additional burdens beyond what is required by the corresponding statutes or supreme court rules. *People v. Sims*, 165 Ill. App. 3d 204, 207 (3d Dist. 1988); *People v. Bywater*, 358 Ill. App. 3d 191, 196 (2d Dist. 2005) (*rev’d on other grounds*). The so called “local rule” in this case, however, modifies how the speedy trial clock is calculated, and adds an additional burden to the defendant.

People v. Atou, 372 Ill. App. 3d 78 (1st Dist. 2007) is instructive. In *Atou*, a defendant challenged Cook County circuit court rule 14.2, which required a defendant to serve a speedy-trial demand on the State’s Attorney in open court when demanding trial. *Id.* at 79-80. The trial court, as well as the First District, determined that this circuit court rule conflicted with the statutory language, and created an additional burden of serving the written demand in open-court in order to properly demand trial. *Id.* at 83. This same reasoning applies to the Vermilion County rule of requiring a defendant to schedule trial upon demanding trial, and not starting the speedy trial clock until the scheduled trial date.

The Fifth District described Jackson’s June 3, 2022, continuance as a “delay of his own creation,” and considered the setting of a second trial date, and therefore the time to reach that trial date, to be a part of his most recent motion to continue. *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 31. The appellate court said the only way to avoid this additional delay was to set a trial date at the time the motion to continue is granted. *Id.* This logic essentially moves the demand for trial up to the date of the defendant’s previous continuance, forcing the defendant to guess if they will or will not be ready at the next court date.

The Fifth District concluded that Vermilion County’s practice of requiring a defendant to “make sure that the matter is set for trial” at the continuance prior to demanding trial for the speedy trial clock to begin to run again was not a substantial burden. *Id.*, ¶ 33. This conclusion, however, is simply incorrect. The Act says nothing of requiring a case be set for trial in order for the speedy trial clock to begin or resume running. Regardless, Vermilion County requires a defendant to take this additional act for the speedy trial clock to run. Further, according to the Fifth District’s interpretation of this practice, the speedy trial clock does not begin running when a defendant demands trial, whether or not they had done so before, but on the next set trial date. *Id.*, ¶ 36 (“Applying the rationale of *Majors*, we find, contrary to defendant’s calculations, that defendant was responsible for the delay from March 22, 2022 [when Jackson initially demanded trial], until the State’s motion to continue on April 29, 2022.”). As explained *supra*, when the clock does not begin running until the next scheduled trial date, the State is more or less incentivized to schedule trial out further into the future, as there is no cost in doing so. Not only does this county-specific rule add an additional burden to defendants wanting to demand trial, but it delays the start of the speedy trial clock. This county-specific rule ignores the plain language of the Act and this Court’s prior applications of the Act, and creates inconsistency throughout the state, as explained in depth *supra*.

Furthermore, this Vermilion County practice does not comport with Supreme Court Rule 21(a). Supreme Court Rule 21(a) allows a “majority of the *circuit judges in each circuit*” to “adopt rules governing civil and criminal cases.” Ill. S. Ct. R. 21(a) (emphasis added). These rules “*shall be filed* with the Administrative Director within 10 days after they are adopted.” Ill. S. Ct. R. 21(a) (emphasis added). Supreme

Court Rule 21(a) applies to all trial judges within a *judicial circuit*, not all trial judges within a *geographical county*. Nowhere in the record is Vermilion County's practice labeled as a *circuit* rule, and unlike the rule in question in *Atou*, which appears to have been formally adopted as Cook County circuit court rule 14.2, this practice is not a formally written rule that one can reference in any capacity. Nothing suggests that this practice was adopted by a "majority of the circuit judges" of the Fifth Judicial Circuit, in which Vermilion County sits, nor has this practice been filed with the Administrative Director, within ten days or otherwise. In fact, this rule does not appear on the Fifth Judicial Circuit's website's list of local rules. See <https://fifthcircuitil.com/wp-content/uploads/2023/05/Rules-of-Practice-March-2023.pdf> (last accessed Aug. 18, 2025). The rule in question in *Atou* was not merely "a local rule for Cook County," as suggested by the Fifth District, *Jackson*, 2025 IL App (5th) 230504-U, ¶ 26, but was local circuit court rule 14.2, which was formally filed by the Circuit Court of Cook County. The confusion may arise from the fact that the First Judicial Circuit consists only of Cook County, meaning Cook County is both its own county court and a judicial circuit. Supreme Court Rule 21(a) does not authorize this Vermilion County-specific practice, and even if it did, the formal procedures were not followed for this practice to be recognized as a circuit rule.

Supreme Court Rule 21(a), while allowing for local circuit flexibility, nonetheless aims to ensure "uniform[ity] throughout the State," and the process requiring such rules to be filed would make any differences between courts available for reference if need be. Allowing Vermilion County to have county-specific practices that are not formalized in any capacity goes against the spirit of the Rule. In doing so, the Fifth District creates confusion between how courts in different counties calculate the speedy trial period. This confusion is made clear by the trial court's

own statements. When discussing his ruling on the motion for discharge, the trial court stated that Vermilion County had used “at least three or four different systems” for dealing with speedy trial demands since he “had been an attorney or judge” in Vermilion County. (R. 192). The county-specific way of calculating speedy trial, it seems, had changed numerous times within one judge’s legal tenure without any formal notice for attorneys, judges, and defendants. This “county-specific practice” also does not appear to be county-specific, as this practice did not appear to exist until the trial court interpreted the Fourth District’s decision in *Majors* in this manner. Further, as explained *supra*, this county-specific practice allows for two defendants in different counties to have the same court dates and pre-trial events, yet result in different calculations of the speedy trial period. This is the opposite of what Supreme Court Rule 21(a) intends, and this Court should therefore reverse the Fifth District’s decision.

G. The Fifth District’s concern about a defendant taking advantage of the speedy trial system is unwarranted because protections against such abuses were written into the Speedy Trial Act itself.

One reasoning behind the Fifth District’s decision was the potential for defendants abusing the speedy trial clock, stating, “[t]he potential for abuse by defendants . . . is present in any case where the defendant has asked for or agreed to a continuance to a status date or a pretrial date without setting a specific trial date.” *People v. Jackson*, 2025 IL App (5th) 230504-U, ¶ 30. This concern was also exhibited in the Fourth District’s decision in *People v. Majors*, 308 Ill. App. 3d 1021 (4th Dist. 1999). However, both courts seem to ignore the fact that the Act contains explicit protections from such abuse, making this concern unwarranted.

In *Majors*, the court noted the “potential for abuse” in a scenario where

the defendant demands trial after having already filed an open-ended continuance. *Id.* at 1028. The court gave the hypothetical where a defendant could file a continuance with two days left on the speedy trial clock, agree that the clock would be tolled until his next set trial date, and then at any point in time “simply change his mind” and insist on being tried on two days’ notice. Putting aside the fact that, as explained *supra*, the defendant in *Majors* explicitly waived his right to a speedy trial, this hypothetical ignores that the Act already protects the State in this exact scenario.

The Act includes two safeguards to prevent a defendant from springing trial on the State. First, section 103-5(c) allows the State to seek an extension when the State has exercised due diligence to obtain evidence material to a case, and there are reasonable grounds to believe the evidence may be obtained at a later date. 725 ILCS 5/103-5(c). This extension can be for up to 60 days or up to 120 days if the State requires DNA testing. 725 ILCS 5/103-5(c). In order to grant the State’s request, the trial court need only to determine on a case-by-case basis whether the State exercised due diligence without success, and whether the evidence sought by the State is material to the case. *People v. Swanson*, 322 Ill. App. 3d 339, 342 (3d Dist. 2001). Therefore, a defendant cannot spring trial on the State before the State is able to obtain material evidence, so long as the State exercises due diligence in obtaining said evidence.

The Act also contains a second safeguard by allowing the State additional time in the speedy trial period when a delay attributed to the defendant occurs with 21 days or less remaining on the speedy trial clock. 725 ILCS 103-5(f). In other words, when a defendant files a continuance with only three weeks or less remaining on the speedy trial clock, the State is allowed to request an extension

of up to 21 days. This is because the legislature understood that a defendant may demand trial with only a few days remaining on the speedy trial clock, with the State not yet ready for trial. To prevent a scenario such as this being abused, the legislature created section 103-5(f) as a safeguard from this form of abuse, and trial courts are well versed in using that safeguard when necessary. *See People v. Andrade*, 279 Ill. App. 3d 292, 301 (1st Dist. 1996) (trial court did not abuse discretion in granting the State a continuance when defendant caused delay within 21 days of the end of the speedy trial period); *People v. Hamblin*, 217 Ill. App. 3d 460, 464 (4th Dist. 1991) (same); *People v. Miles*, 176 Ill. App. 3d 758, 773-74 (1st Dist. 1988) (same).

The Fourth District, however, overlooked these sections of the Act when discussing the potential for abuse in *Majors*. 308 Ill. App. 3d at 1028. The hypothetical scenario the court described in *Majors*, where a defendant would demand trial, file an open-ended continuance with two days left on the speedy trial clock, and then demand trial again, is precisely the scenario covered by section 103-5(f) of the Act. If the defendant in this hypothetical demanded trial again with only two days remaining on the speedy trial clock, the State would be fully within its right to request an extension of up to 21 days beyond the 120 day period under section 103-5(f). There is no “potential for abuse” for the court to consider, because the legislature already created a safeguard against it.

The Fifth District in this case shared the Fourth’s unwarranted concern for abuse, and created a solution for a non-existent problem. Nothing in this case suggests that Jackson was attempting to take advantage of the system when he filed a continuance after having already demanded trial. Jackson demanded trial on March 22, 2022, because he was ready to go to trial based on the evidence that

the State had tendered up to that point. After this demand, the State filed two motions that would result in new evidence being presented: one to admit impeachment evidence and another to take DNA samples. (R. 79; C. 87-89, 91, 100). On June 3, 2022, the defense moved to continue after having received the results of the DNA analysis. (R. 97). This is the continuance of importance to the State, because no trial date was set.

Jackson filed this continuance not to delay trial, but because he had received new, substantive discovery from the State and needed time to determine how best to adjust his defense to incorporate this evidence. (R. 96-97). According to the record, defense counsel had received the DNA evidence only eight days prior, and had not yet had the opportunity to talk to Jackson about this evidence. (R. 97). While the State objected to the defense's motion to continue, the trial court allowed the continuance because "significant information" had been tendered to defense counsel. (R. 98-99). Jackson was not filing this continuance after having already demanded trial to abuse the system, but in order to ensure his defense addressed all of the evidence that could be presented at trial. The facts in this case do not show an attempt to abuse the system, but instead reflect the defense formulating trial strategy based on the State's own discovery disclosures.

There is no concern for abuse in this case, or ones factually similar to this case, because the Act includes not one, but two ways for the State to request more time when necessary. 725 ILCS 103-5(c); (f). Furthermore, the facts in this case do not show a defendant attempting to abuse the system. For both of these reasons, concern for abuse is unwarranted.

H. Conclusion

In deciding *People v. Jackson*, 2025 IL App (5th) 230504-U, the Fifth District goes against this Court's prior precedent, and instead relies on a factually distinct case from over 25 years ago. This decision adds words to the Act, allows Vermilion County to require an additional burden for defendants to demand trial, and creates disparate outcomes for defendants demanding trial in different counties in Illinois. Furthermore, the court's concern for abuse of the Act is not even warranted. When a defendant demands trial, the Act dictates that the speedy trial clock begins running, regardless of whether or not he previously received a continuance. The Act's protection of speedy trial rights is applied equally across all 102 Illinois counties. For those reasons, this Court should reverse *People v. Jackson*, 2025 IL App (5th) 230504-U, reverse Jackson's conviction, and vacate his sentence.

CONCLUSION

For the foregoing reasons, Jessie Jackson, defendant-appellant, respectfully requests that this Court reverse the Fifth District's decision in *People v. Jackson*, 2025 IL App (5th) 230504-U, and order that Jackson's conviction be reversed.

Respectfully submitted,

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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 or words contained in 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, is 37 pages or 11046 words.

/s/ Madison N. Heckel
MADISON N. HECKEL
Assistant Appellate Defender

APPENDIX TO THE BRIEF

Jessie Jackson No. 131608

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NOTICE
Decision filed 02/04/25. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2025 IL App (5th) 230504-U
NO. 5-23-0504
IN THE
APPELLATE COURT OF ILLINOIS
FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Vermilion County.
)	
v.	)	No. 19-CF-650
)	
JESSIE JACKSON,	)	Honorable
	)	Derek J. Girton,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE SHOLAR delivered the judgment of the court.
Justices Welch and Barberis concurred in the judgment.

ORDER

¶ 1 *Held.* Defendant’s conviction is affirmed where the State did not violate defendant’s statutory right to a speedy trial. Defendant’s sentence is vacated and the matter is remanded for a new sentencing hearing, where the trial court improperly sentenced defendant in the absence of a presentence investigation report and without proper admonishments.

¶ 2 Defendant, Jessie Jackson, appeals his conviction and sentence for home invasion, a Class X felony, in violation of section 19-6(a)(1) of the Criminal Code of 2012 (720 ILCS 5/19-6(a)(1) (West 2018)), arguing that the trial court improperly denied his motion to dismiss for a violation of defendant’s right to a speedy trial under section 103-5(a) of the Code of Criminal Procedure of 1963. 725 ILCS 5/103-5(a) (West 2022). Defendant also claims that the court improperly sentenced him in the absence of a written presentence investigation report in violation of section

5-3-1 of the Unified Code of Corrections. 730 ILCS 5/5-3-1 (West 2022). For the reasons that follow, we affirm defendant's conviction but vacate his sentence and remand for resentencing.

¶ 3 I. BACKGROUND

¶ 4 Law enforcement arrested defendant on November 10, 2019. He remained in custody for the entirety of this case. On November 12, 2019, the State charged defendant by information with seven offenses: count I, home invasion—discharged a firearm (Class X) (720 ILCS 5/19-6(a)(4) (West 2018)); count II, home invasion—armed with a firearm (Class X) (*id.* § 19-6(a)(3)); count III, unlawful possession of a weapon by a felon—forcible felony (Class 2) (*id.* § 24-1.1(a)); count IV, unlawful possession of a weapon by a felon (Class 3) (*id.*); count V, violation of order of protection (Class 4) (*id.* § 12-3.4(a)(1)(i)); count VI, violation of order of protection (Class 4) (*id.*); and count VII, domestic battery (Class 4) (*id.* § 12-3.2(a)(1)). A grand jury later indicted defendant of the same offenses.

¶ 5 Following defendant's arraignment on November 26, 2019, the matter was set for trial on February 18, 2020. The trial court asked defense counsel whether he had any objection to the delay in the speedy trial term between the arraignment date and the trial date being attributed to defendant. Defense counsel did not object. Following the arraignment, and over the next 16 months, the case was continued multiple times by defendant or by agreement. Following each continuance, the case was given a future date for a pretrial conference. It was not given a specific date for trial.

¶ 6 On March 22, 2022, defendant made a speedy trial demand. The trial court set the matter for a pretrial conference on April 29, 2022, and for jury trial on May 3, 2022. At the April 29, 2022, pretrial conference, the State moved for a continuance of the May 3 jury setting. The State's

motion was granted over defendant's objection. The matter was reset for a pretrial conference on June 3, 2022, and a jury trial on June 7, 2022.

¶ 7 On June 3, 2022, defendant filed a motion to continue the June 7, 2022, jury setting. The matter was set for a pretrial conference on August 15, 2022, and a jury trial on August 16, 2022. On August 11, 2022, defendant's attorney was allowed to withdraw as counsel, and the public defender was appointed to represent defendant. The pending pretrial conference and jury trial settings were canceled, and the matter was set for a pretrial conference on October 12, 2022. Various delays attributable to defendant occurred until the matter was set for a pretrial conference on April 25, 2023. By that date, defendant retained new private counsel.

¶ 8 On April 25, 2023, defendant appeared in court with counsel. Defense counsel stated that defendant demanded a speedy trial pursuant to statute. Per her calculations, the State had 32 days to bring defendant to trial. Since the 32nd day fell on Saturday, May 27, 2023, she calculated that the last day the State could bring defendant to trial before running afoul of the speedy trial statute would be Tuesday, May 30, 2023, allowing for the Memorial Day holiday. The trial judge stated that his jury calls were filled until July 18, but that he would find a different judge to try the case on May 2, 2023. Both parties agreed that they could be ready on that date.

¶ 9 Later that same morning, the State asked that the case be recalled. Defendant was present via video. The State attempted to discuss the speedy trial issue with the court, and the court told the prosecutor that the court would not calculate the delays attributable to the State, but that if the State wanted a different date, the court would give the State a different date. The prosecutor claimed that a ruling was made during the August 11, 2022, hearing that the speedy trial time would be tolled until the next trial date.¹ The court noted that the State could make this argument after defense counsel filed a motion to dismiss and asked the prosecutor if he thought that the July

¹This ruling does not appear in the record.

18, 2023, setting was within the allowable time frame. The State believed July 18 was within the time the State had to bring defendant to trial. Defense counsel objected to the July 18 trial date, contending once again that the State only had until May 30, 2023, to bring defendant to trial. Over defendant's objection, the trial court set the matter for a pretrial conference on July 13, 2023, and for a jury trial on July 18, 2023.

¶ 10 On June 5, 2023, defendant filed a motion to dismiss, alleging the State violated his statutory right to a speedy trial in violation of section 103-5(a) of the Code of Criminal Procedure of 1963. 725 ILCS 5/103-5(a) (West 2022). In the motion, defendant contended that there were more than 120 days of delay attributable to the State, and that the charges should be dismissed. The defendant used two alternative calculations, either of which could lead to the dismissal of the charges. Defendant's first calculation follows: November 10, 2019, to November 26, 2019 (16 days attributable to the State); March 22, 2022, to June 3, 2022 (73 days); and April 25, 2023, to May 26, 2023 (31 days); for a total of 120 days attributable to the State as of May 26, 2023. Defendant's second calculation follows: November 10, 2019, to November 26, 2019 (16 days attributable to the State); March 22, 2022, to June 3, 2022 (73 days); and May 2, 2023, to June 2, 2023 (31 days); for a total of 120 days attributable to the State as of June 2, 2023. The State counted the delays differently: November 10, 2019, to November 26, 2019 (16 days);² and April 29, 2022, to June 7, 2022 (32 days);³ for a total of 48 days attributable to the State. The State contended that the period from April 25, 2023, to July 18, 2023, was attributable to defendant, arguing that following a defendant's motion to continue a case, the speedy trial clock remained tolled until the

²Both parties agree that the State mistakenly calculated this period as 60 days in its pleadings before the trial court, adding 44 days of State attributable delay to its calculations. For the sake of clarity, we will deduct these 44 days from the State's subsequent calculations.

³The State's response to defendant's motion to dismiss first calculated this as 36 days but then deducted 4 days since defendant moved to continue the June 7, 2022, date on June 3. It is unclear how the State calculated 32 days, because April 29—June 3 is 35 days.

next trial date. For this reason, the State believed that the July 18, 2023, trial date was well within the 120-day statutory period in which it needed to bring defendant to trial.

¶ 11 Following a hearing on June 8, 2023, the trial court denied defendant's motion to dismiss. In making his ruling, the judge noted that the time starts running when a defendant is taken into custody and continues to run until the preliminary hearing or arraignment date. In Vermilion County, on that date, the parties traditionally agree to the matter being set for a pretrial or status date and agree that this tolls the time in which the State must bring the defendant to trial. If the matter is continued again, the time continues to be tolled until a defendant asks for a trial date. The judge then stated, "At that pretrial where they ask for a trial date, the time starts again to that trial date." The court further explained that if the defense attorney wants a trial date, the court will give the defendant a trial date, but if defense counsel does not think that they will be ready for trial, the matter is put back on the pretrial docket. The court then noted that the time "is still tolled until it gets put back on a trial date, that next trial date. Not—[the time] doesn't start again at that pretrial date. They ask for the next trial February 4, 2025. [The time] starts [again] when we get to the next trial [setting]."

¶ 12 Focusing on the hearing of April 25, 2023, when the defendant asked for a trial date, the trial court stated "the time does not start on April 25th. It starts when we get to the next trial [setting]." From the court's perspective, the question then became what was the effect of the State initially agreeing to a trial date of May 2, 2023, but then later that morning asking for a different date. The judge stated:

"I personally do not find that to be tantamount to a trial date being set and then a motion to continue. That is—it was recalled within a couple of hours to deal with getting a date where both sides were, in fact, going to be ready. The continuance up to that point had been on the defense. It had been continued for almost a year from the trial call when it had last been on the trial call by the defense. They showed up on April 25th, which under our system is perfectly within their rights and

announced ready for trial, apparently catching the State somewhat off guard and it took them a couple of hours to sort of regroup and realize [they] wouldn't be ready on that date and [they] needed more time. I do not find that that 2-hour period of time for the State to realize, no, we won't be ready on May 2nd, we can be ready on the July date that you gave us, that that started the clock again and that we are now past the 120. So I will deny the motion. Show the matter continues to stand for trial on July 18th."

¶ 13 On June 29, 2023, the State filed an amended information that added count VIII, home invasion with a deadly weapon, a Class X felony, in violation of section 19-6(a)(1) of the Criminal Code of 2012. 720 ILCS 5/19-6(a)(1) (West 2018).

¶ 14 At the final pretrial conference on July 13, 2023, the parties announced that they reached an agreement whereby the trial would proceed by stipulation as to the evidence on count VIII. The parties further agreed that, if the trial court found defendant guilty, then defendant would receive an 18-year sentence to the Illinois Department of Corrections. The State agreed to dismiss counts I-VII. After reviewing the stipulation and hearing argument, the court found the State met its burden of proof and found defendant guilty of count VIII, home invasion.

¶ 15 The parties agreed to proceed immediately to sentencing. The State and defense counsel both stated that they waived a presentence investigation report. Pursuant to the agreement of the parties, the court sentenced defendant to 18 years in prison. No posttrial motions were filed.

¶ 16 This timely appeal followed.

¶ 17 **II. ANALYSIS**

¶ 18 On appeal, defendant raises two issues. First, defendant argues that the trial court improperly denied his motion to dismiss for a violation of his right to a speedy trial. Defendant also claims that the court improperly sentenced him in the absence of a written presentence investigation report. For the reasons that follow, we affirm defendant's conviction but vacate his sentence and remand for resentencing.

¶ 19 First, we consider whether defendant's statutory speedy trial right was violated. The parties agree that, as of November 26, 2019, 16 days were attributable to the State. Defendant acknowledges that all delays between November 26, 2019, and March 22, 2022, whether the matter was continued by agreement or by the defense, were attributable to the defendant. Defendant contends that the speedy trial clock began to run again on March 22, 2022, due to his making a speedy trial demand on the record. On March 22, 2022, pursuant to defendant's request for a trial date, the trial court set this matter for a pretrial conference on April 29, 2022, and a jury trial on May 3, 2022. Because the court then granted the State's motion to continue the matter on April 29, 2022, and set this matter for a pretrial conference on June 3, 2022, and a jury trial on June 7, 2022, defendant argues that the 73-day delay from March 22, 2022, until the defendant's next motion to continue was granted on June 3, 2002, is attributable to the State. Defendant's argument is based upon his contention that the speedy trial clock starts running again as soon as the defendant makes or renews a speedy trial demand.

¶ 20 The State disagrees with this calculation. According to the State, the delay from March 22, 2022, until April 29, 2022, was attributable to defendant. The State notes that defendant's speedy trial demand on March 22, 2022, occurred *before* the court suggested a date of May 3, 2022, and that defendant agreed to that date without an objection. For this reason, the State contends that clock did not start running again until its motion to continue was granted on April 29, 2022. See *People v. Cordell*, 223 Ill. 2d 380, 391 (2006) (finding that a "simple request for trial before any 'delay' is proposed is not an equivalent to an objection for the purposes of section 103-5(a)"). Thus, the State contends that it is only responsible for the 35-day delay occurring from April 29, 2022, until defendant's next motion to continue was granted on June 3, 2022.

¶ 21 The parties also disagree on how to attribute the delays occurring after defendant's next speedy trial demand on April 25, 2023. According to defendant, the clock started running again on April 25, 2023, and he is not responsible for any further delay. In the alternative, defendant argues that the speedy trial clock began running again on May 2, 2023, the date the court initially set as a trial date after defendant's renewed demand, and that the delay from May 2, 2023, to July 18, 2023, is attributable to the State since the State appeared later the morning of April 25 and asked for the later date. The State believes that all the time from defendant's April 25, 2023, trial demand through the July 18, 2023, setting is attributable to defendant.

¶ 22 The people of Illinois possess both constitutional and statutory rights to a speedy trial. *People v. Hartfield*, 2022 IL 126729, ¶ 32 (citing U.S. Const., amends. VI, XIV; Ill. Const. 1970, art. I, § 8; 725 ILCS 5/103(a) (West 2020)). "Although Illinois's speedy trial statutes implement the constitutional right, the statutory and constitutional rights are not coextensive." *Id.* (citing *People v. Sandoval*, 236 Ill. 2d 57, 67 (2010)). Defendant claims only a statutory violation.

¶ 23 The speedy trial statute pertinent to defendant provides, in relevant part, as follows:

"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 ***. Delay shall be considered agreed to by the defendant unless he or she objects to delay by making a written demand for trial or an oral demand for trial on the record." 725 ILCS 5/103-5(a) (West 2022).

Section 103-5(a) provides "a starting point—the date custody begins, and an ending point—120 days later." *Cordell*, 223 Ill. 2d at 390. "The 120-day period in which a defendant must be tried is therefore running during that time. The period is tolled during any time when the defendant causes, contributes to, or otherwise agrees to a delay." *People v. Cross*, 2022 IL 127907, ¶ 20 (citing *People v. Woodrum*, 223 Ill. 2d 286, 299 (2006)). "In other words, a pretrial delay caused or

contributed to by defendant or otherwise agreed to by him is excluded from the computation of the 120-day period in which a trial must commence.” *Id.*

¶ 24 When a defendant files a motion to dismiss for a speedy trial violation, “the defendant has the burden of affirmatively establishing the violation of his right to a speedy trial, and where a delay is attributable to the defendant, the statutory period is tolled.” *People v. Majors*, 308 Ill. App. 3d 1021, 1025 (1999) (citing *People v. Reimolds*, 92 Ill. 2d 101, 106 (1982)). “The trial court’s determination as to who is responsible for a delay of the trial is entitled to much deference, and should be sustained absent a clear showing that the trial court abused its discretion.” *People v. Klinier*, 185 Ill. 2d 81, 115 (1998). Whether a defendant’s statutory right to a speedy trial has been violated is a question of law and is therefore subject to *de novo* review. *People v. Pettis*, 2017 IL App (4th) 151006, ¶ 17.

¶ 25 The outcome of this dispute is dependent upon when the State’s clock begins running again following a defense continuance to a date other than a trial setting. Defendant contends that Vermilion County’s practice of not starting the clock again until the next trial setting is a local rule that imposes a burden on defendant that is not found in the speedy trial statute. In support of his argument, defendant notes that nothing in the statute requires a case to be put on a trial call or set for a “trial date” for the clock to run, citing to *People v. Atou*, 372 Ill. App. 3d 78 (2007).

¶ 26 In *Atou*, a local rule for Cook County required that the defendant not only make a demand for a speedy trial with the court but also imposed the additional burden on the defendant of serving the State in open court with a copy of the demand. *Id.* at 79. There, the defendant filed a speedy trial demand but had not served the demand on the State in open court as required by the local rule. *Id.* at 80. The defendant later filed a motion to dismiss for a speedy trial violation. *Id.* The trial court granted the defendant’s motion to dismiss for a speedy trial violation, noting “that ‘where

there is conflict between a state's statute and a local rule, the state's statute clearly takes precedent.' ” *Id.* at 81. The appellate court agreed, noting that a local rule promulgated under Illinois Supreme Court Rule 21(a) “may not abrogate, limit or modify existing law” (internal quotation marks omitted) (*id.* at 82) and further finding that section 103-5(b) does not require a defendant to serve the State with a written speedy trial demand in court (*id.* at 83).

¶ 27 Here, defendant argues that the Vermilion County practice of tolling the clock until the next trial setting imposes an additional burden on a defendant to ensure that, following a defense motion to continue, the case is placed back on a specific trial date. We disagree and find *Atou* distinguishable. The court in *Atou* addressed an additional burden being placed on defendant to exercise his speedy trial rights from the outset of the case by requiring the defendant to provide the State with a written copy of the speedy trial demand in open court. The requirement of providing the State with a written copy of the speedy trial demand in open court is not contained in the statute. By contrast, in the instant case, we are confronted with the issue of when the clock starts again following a delay attributable to a defendant as a consequence of the defendant's request for a continuance. In that regard, we find *People v. Majors*, 308 Ill. App. 3d 1021 (1999), instructive.

¶ 28 In *Majors*, on September 16, 1997, 14 days prior to trial, the defendant moved to continue his case and asked that the matter be set for a “status” hearing on October 27, 1997. *Id.* at 1026. The defendant did not ask for a specific date for a trial. *Id.* The parties agreed that the time would toll until the next actual trial date. *Id.* at 1026-27. At the October 27 hearing, the parties agreed that 91 days ran against the State to that point. *Id.* at 1027. Although the parties initially agreed to try the case on March 31, 1998, defense counsel stated that the defendant had not anticipated such a long delay and wished to be tried within the remaining 29 days. *Id.* The matter was set for trial

on November 18, 1997. *Id.* On November 5, the trial court heard the State’s motion to reconsider the scheduling of the trial date because a witness was unavailable for the November 18 setting. The State’s motion averred that when a defendant requests the continuance of a trial setting, the time is tolled and attributable to the defendant from that time until the new trial date. *Id.* Defense counsel “agreed that this appeared to reflect the current status of the various court interpretations [of the speedy trial statute],” and the matter was set for trial on February 17, 1998. *Id.* Defendant stated he was satisfied with the new date. *Id.* On appeal, the defendant argued “that, at the October 27 status hearing, he had the right to insist that the time remaining on the speedy trial clock be calculated and he then be granted a trial within the remaining time.” *Id.* at 1028.

¶ 29 The *Majors* court disagreed, finding that defendant knowingly and intelligently waived his right to a speedy trial when he moved to continue the September 30, 1997, trial date. *Id.* The court also noted, because the defendant “did not request a continuance to a certain date, all of the time between the motion for continuance and the next trial setting is attributable to defendant.” *Id.* (citing *People v. Baker*, 273 Ill. App. 3d 327, 330 (1995), *abrogated on other grounds by People v. Dockery*, 313 Ill. App. 3d 684 (2000)). Finding “no authority for the proposition that a defendant can make an open-ended motion for a continuance, requesting only that the matter be scheduled for a status hearing, and then unilaterally halt the tolling of the speedy trial clock,” the *Majors* court concluded “that granting defendants such a right would unduly instill in defendants the ability to undermine and disrupt the presentation of the State’s case.” *Id.* The court gave the following example:

“If such a right were to exist, a defendant with two days left on the speedy trial clock could move for an open-ended continuance, agree that the speedy trial clock would be tolled until the rescheduled date of his trial, and then at any subsequent time simply change his mind and insist on being tried on two days’ notice.” *Id.*

Defendant attempts to distinguish *Majors*, because the defendant therein specifically agreed the delay would be attributable to defendant from the date of the continuance to the rescheduled date of his trial. Defendant argues that he did not agree to toll the speedy trial clock at any point in time. We disagree.

¶ 30 Implicit in each of defendant's motions to continue this case is an agreement, or at the very least an understanding, that the speedy trial clock is tolled. The potential for abuse by defendants noted in *Majors* is present in any case where the defendant 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. As occurred here, a defendant could still 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. Although "responsibility for delays caused by crowded dockets rests with the State and not the defendant," "a defendant must share the blame where he causes or concurs in a rescheduling." *People v. Wiegand*, 183 Ill. App. 3d 216, 218 (1989). Even if we consider the trial court's crowded docket as one reason for the delay from April 25, 2023, to July 18, 2023, "where there are two reasons for the delay, one attributable to the State and the other to the defendant, 'the fact that the delay was partially attributable to the defendant will be sufficient to toll the statutory term.'" *People v. Lilly*, 2016 IL App 140286, ¶ 31 (quoting *People v. Plair*, 292 Ill. App. 3d 396, 400 (1997)).

¶ 31 Here, defendant's repeated continuances were a cause of the rescheduling and constitute delays occasioned by defendant. Following a defendant's motion to continue, a defendant is free to later announce that he is ready for trial, and a trial date will need to be set. It follows that the delay from the time of the motion to continue until the next trial setting is delay occasioned by defendant. In other words, the time from a defendant's announcement that he is demanding a

speedy trial until the next trial date is still a part of defendant's most recent motion to continue. If this court were to hold otherwise, it would in essence be allowing a defendant to object to a delay of his own creation. This can be avoided by setting a jury trial date at the time the motion to continue is granted.

¶ 32 We note that the trial court and the State both tried to accommodate defendant's request to have the trial set soon after defendant announced that he was ready for trial on April 25, 2023, by agreeing to set the matter for a jury trial one week later on May 2, 2023. When, within a couple of hours, the State realized that some of its witnesses were unavailable on such short notice and that it could not be ready, the court reset the matter on what it had previously told the parties was its next available date. Nothing that transpired during the discussion that morning indicates that the State was trying to cause defendant an unjust delay. During the previous discussion earlier that morning, defense counsel acknowledged that the court's docket was full, noting that one of the cases set was her case.

¶ 33 While defendant claims that the Vermilion County practice of tolling the clock from the date of a defendant's continuance to the next trial setting adds a burden to defendant by requiring him to make sure that the matter is set for a trial, we do not believe that this is any substantial burden. When a defendant is ready to proceed to trial, he need only announce that to the trial court. Although the coordination of a trial docket is not strictly linear, after a series of continuances lasting more than eight months, a defendant cannot reasonably expect to jump to the head of the line at his demand. *Majors* clearly stands for the proposition that it is appropriate for a trial court to attribute delay based upon a defendant's continuance from the date of the continuance to the next trial setting. "The right to a speedy trial is not a sword to be used to extricate oneself from criminal charges. It is a shield to protect the accused from unjust and prejudicial delays occasioned

by the State.” *Majors*, 308 Ill. App. 3d at 1028-29 (citing *People v. Tetter*, 42 Ill. 2d 569, 576 (1969); *People v. Brown*, 117 Ill. App. 2d 97, 103 (1969)).

¶ 34 For these reasons, we conclude that the Vermilion County practice of attributing delay to a defendant from the date of his continuance to his next trial setting, even if it requires the defendant to request a specific trial date, is appropriate and therefore does not run afoul of Illinois Supreme Court Rule 21(a) (eff. Oct. 1, 2021) by abrogating, limiting, or modifying section 103-5(a) of the Code of Criminal Procedure of 1963. 725 ILCS 5/103-5(a) (West 2022).

¶ 35 Furthermore, and for the reasons stated, we cannot find that the trial court abused its discretion in determining defendant is responsible for the delay occurring from April 29, 2023, to the trial setting of July 18, 2023. As noted above, the court and the State both tried to accommodate defendant’s request for a short setting. That the State initially agreed to the trial being set a week after defendant renewed his demand is of little import. The trial court specifically found that the two-hour period that it took for the State to realize that it could not be ready for trial on May 2 did not start the clock running again. We cannot say that the trial court’s decision to attribute the delay from defendant’s renewed speedy trial demand on April 25, 2023, to the trial setting on July 18, 2023, was an abuse of discretion.

¶ 36 Additionally, we note that the period from March 22, 2022 (when defendant made his first speedy trial demand) to April 29, 2022 (when the State moved to continue the May 3, 2022, jury setting) was not explicitly addressed by the trial court in its ruling. The parties addressed this time in the trial court and on appeal. Applying the rationale of *Majors*, we find, contrary to defendant’s calculations, that defendant was responsible for the delay from March 22, 2022, until the State’s motion to continue on April 29, 2022. When these 38 days are subtracted from defendant’s calculations, it is even clearer that the State did not violate defendant’s statutory speedy trial right.

By our count, at the time defendant renewed his speedy trial demand on April 25, 2023, only 51 days of delay were attributable to the State. Again, it cannot be said that defendant's statutory right to a speedy trial was violated.

¶ 37 We next consider defendant's claim that the trial court improperly imposed defendant's agreed-to 18-year sentence in the Illinois Department of Corrections in the absence of a presentence investigation (PSI). As noted above, the parties agreed that, should the trial court find defendant guilty at the stipulated bench trial, defendant would receive an 18-year sentence. When asked, defendant confirmed that he understood this agreement, and after the court explained the stipulated bench trial process, defendant confirmed that he wished to proceed. After finding defendant guilty, the matter immediately proceeded to sentencing. The State and defense counsel waived the PSI. The court sentenced defendant to 18 years in prison. Defendant now argues that the trial court erred by proceeding to sentencing in the absence of a PSI or a finding on the record as to defendant's criminal history. We agree.

¶ 38 Section 5-3-1 of the Unified Code of Corrections provides as follows:

“A defendant shall not be sentenced for a felony before a written presentence report of investigation is presented to and considered by the court.

However, *** the court need not order a presentence report of investigation where both parties agree to the imposition of a specific sentence, provided there is a finding made for the record as to the defendant's history of delinquency or criminality, including any previous sentence to a term of probation, periodic imprisonment, conditional discharge, or imprisonment.

The court may order a presentence investigation of any defendant.” 730 ILCS 5/5-3-1 (West 2022).

¶ 39 Defendant acknowledges that this issue was not raised in a posttrial motion; however, relying on *People v. Youngbey*, 82 Ill. 2d 556 (1980), defendant argues that he could not waive the PSI. In *Youngbey*, the court noted that the PSI “is for the enlightenment of the court, as well as for the benefit of the defendant. As such, it is not a personal right of the defendant.” *Id.* at 565.

Because the requirement of a PSI is a reasonable legislative enactment and not a personal right of the defendant, the court held that a PSI “cannot be waived.” *Id.*

¶ 40 Drawing a distinction between waiver and forfeiture, the State counters that while a PSI cannot be waived, it can be forfeited. In support of its argument, the State relies on *People v. Sophanavong*, 2020 IL 124337. In *Sophanavong*, the defendant pled guilty to first degree murder and was sentenced to an agreed upon sentence of 55 years in prison. *Id.* ¶ 6. The trial court asked about the defendant’s criminal history and was told that defendant had a prior Class 1 felony and some traffic tickets. *Id.* ¶¶ 9-10. The parties then waived the PSI, and the court sentenced defendant to 55 years in prison. *Id.* ¶¶ 10-11. The trial court told defendant that, prior to taking an appeal, he would have to file a motion to withdraw his guilty plea. *Id.* ¶ 11. Defendant filed a timely motion to withdraw his guilty plea. *Id.* ¶ 12. Over the course of the next three years, two amended motions to withdraw guilty plea were filed. *Id.* ¶¶ 13-14. None of the postplea motions claimed a sentencing error. *Id.* On his second appeal, the defendant raised, for the first time, his claim that the trial court erred by failing to strictly comply with section 5-3-1 of the Unified Code of Corrections because the court had not been informed of the dispositions of defendant’s prior criminal cases. *Id.* ¶ 15. The appellate court agreed with the defendant and remanded the matter for resentencing. *Id.* ¶ 17. On appeal from the appellate court, the Illinois Supreme Court distinguished *Youngbey*, noting, in part, that the State had not raised forfeiture and the court did not discuss forfeiture in *Youngbey*. *Id.* ¶ 28. Noting that the defendant’s act of pleading guilty forecloses any claim of error, the *Sophanavong* court found that the issue had been forfeited and reversed the appellate court and affirmed the defendant’s sentence. *Id.* ¶ 33. We find *Sophanavong* is distinguishable.

¶ 41 Unlike the defendant in *Sophanavong*, who was properly given his appeal rights, the defendant here was not properly given his appeal rights. In the case before us, following the

stipulated bench trial and sentencing, the trial court confused defendant's appeal rights. The court started to give defendant his appeal rights under Illinois Supreme Court Rule 604(d). Ill. S. Ct. R. 604(d) (eff. July 1, 2017). Defense counsel noted that this was not a guilty plea and suggested that the Rule 605 admonishments were appropriate. The court then provided defendant with some of the admonishments required under Rule 605 (Ill. S. Ct. R. 605 (eff. Oct. 1, 2001)), but when the court reached the issue of defendant's right to appeal his sentence, the court stated, "Any issue or error regarding the sentence imposed or any aspect of the sentencing hearing not raised, which I guess you have agreed to that." In other words, the court failed to properly admonish defendant under Rule 605(a)(3)(C) "that any issue or claim of error regarding the sentence imposed or any aspect of the sentencing hearing not raised in the written motion shall be deemed waived." Ill. S. Ct. R. 605(a)(3)(C) (eff. Oct. 1, 2001).

¶ 42 "Ordinarily, issues not raised in the trial court are considered forfeited on appeal." *People v. Chapman*, 379 Ill. App. 3d 317, 326 (2007) (citing *People v. Enoch*, 122 Ill. 2d 176, 186 (1988)). "However, the forfeiture rule is an admonition to the parties and not a jurisdictional limitation on the reviewing court." *Id.* (citing *People v. Porter*, 372 Ill. App. 3d 973, 977 (2007), quoting *People v. Normand*, 215 Ill. 2d 539, 544 (2005)). Because the trial court failed to fully admonish defendant pursuant to Rule 605, we decline to apply forfeiture on this issue.

¶ 43 The *Youngbey* court determined that section 5-3-1 of the Unified Code of Corrections imposed a mandatory obligation on the trial court that the defendant cannot waive. *Youngbey*, 82 Ill. 2d at 564. While we acknowledge that defendant agreed to this sentence, we also note that the court and the parties could have easily complied with section 5-3-1 by having the court make a "finding made for the record as to the defendant's history of delinquency or criminality." 730 ILCS 5/5-3-1 (West 2022). For these reasons, we vacate defendant's sentence and remand this matter

for resentencing that complies with the mandate of section 5-3-1 and proper admonishments under Rule 605.

¶ 44

III. CONCLUSION

¶ 45 For the foregoing reasons, we find that defendant's statutory speedy trial right was not violated and affirm defendant's conviction for home invasion. We vacate defendant's sentence and remand for a new sentencing hearing that includes full compliance with section 5-3-1 of the Unified Code of Corrections and proper admonishments under Rule 605.

¶ 46 Affirmed in part; reversed and remanded in part with directions.

No. 131608

IN THE

SUPREME COURT OF ILLINOIS

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

NOTICE AND PROOF OF SERVICE

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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 August 27, 2025, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellant in an envelope deposited in a U.S. mail box in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

/s/ Lisa Corona

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