

2026 IL App (1st) 241441-U
No. 1-24-1441
Order filed September 25, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23 and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT
FIFTH DIVISION

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee,

v.

KHARI WALKER, Defendant-Appellant

Appeal from the Circuit Court of Cook County.
Honorable Charles P. Burns, Judge, Presiding.
No. 20CR1230401

JUSTICE C.A. WALKER delivered the judgment of the court.
Presiding Justice Oden Johnson and Justice Mikva concurred in the judgment.

ORDER

- ¶ 1 *Held:* The circuit court did not err in denying defendant's motion to dismiss on statutory speedy-trial grounds where the continuance was attributable to defendant, and the applicable statutory speedy-trial period had not expired.
- ¶ 2 Following a bench trial, defendant Khari Walker was convicted of first-degree murder and sentenced to 50 years' imprisonment. On appeal, Walker contends that the circuit court erred in denying his motion to dismiss the charges based on a violation of his statutory right to a speedy trial. Specifically, Walker argues the State failed to bring him to trial within the 120-day period set

forth by section 103-5(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5(a) (West 2022)). For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4 Defendant Khari Walker was charged by indictment with 12 counts of first-degree murder, 4 counts of attempted first-degree murder, and 2 counts of aggravated discharge of a firearm in connection with the October 28, 2020, shooting death of Raphael Edwards and the attempted shootings of two other individuals. Walker was also charged with unlawful possession of a weapon by a felon and fleeing and eluding a peace officer in a separate case arising from a November 2, 2020, arrest. Walker remained in custody while both cases were pending. The State initially elected to proceed on the murder case.

¶ 5 On February 2, 2023, Walker requested permission to discharge his appointed counsel and represent himself. Following admonishments, the circuit court granted his request and permitted counsel to withdraw. On August 10, 2023, Walker informed the court that he was having difficulty understanding certain aspects of his case and requested the appointment of counsel. The court granted his request, and a public defender was reappointed to represent him.

¶ 6 On October 10, 2023, Walker appeared with appointed counsel, Assistant Public Defender Rocio Armendariz. Counsel informed the court that she had two motions in limine to file but that the State had tendered a plea offer below the statutory minimum that morning. Counsel requested a continuance to October 23, 2023, to discuss the offer with Walker, including its effect on his pending cases. The court allowed the request to continue the case by agreement. Walker interjected, “Not by agreement, your Honor,” and stated, “Motion State, I want to demand speedy trial.” The court responded that Walker could not demand trial because he was represented by counsel. Walker then stated, “Well I would like to fire my attorney today and demand.” The court continued the

case to October 23 by agreement to allow Walker an opportunity to discuss the plea offer with counsel. Walker again objected to the continuance and reiterated his desire to discharge counsel and demand trial.

¶ 7 On October 23, 2023, Walker renewed his request to represent himself and demand a speedy trial. Following admonishments, the court granted Walker's request to discharge counsel and permitted him to proceed *pro se*. Walker maintained that he had demanded trial on October 10 and had not agreed to the intervening continuance. The court entered Walker's speedy-trial demand and indicated that it would obtain the transcript of the October 10 proceedings to address Walker's contention concerning his earlier demand.

¶ 8 After Walker renewed his demand, the State announced that it was changing its election from the murder case to the firearm case and requested a trial date of November 22, 2023. Walker responded that he had demanded trial on the murder case and expressed confusion concerning the State's election. When the court asked whether Walker demanded trial on both cases, Walker stated that he needed additional time on the firearm case and had demanded trial on only the murder case. The court questioned whether the State could change its election under those circumstances and directed the State to submit a memorandum addressing the issue. The court continued the matter to October 25, 2023, on the State's motion.

¶ 9 On October 25, 2023, attorney David Drwencke appeared on Walker's behalf in the firearm case. Walker continued to represent himself in the murder case. The court asked Drwencke whether he intended to continue Walker's speedy-trial demand on the firearm case. Drwencke responded that he would continue the demand, although he needed to obtain and review discovery. After considering the State's memorandum and conducting its own research, the court permitted the State to proceed on the firearm case, provided that the change of election was not used to

circumvent the statutory speedy-trial requirements. The court acknowledged Walker's demand was running and continued both cases to November 27, 2023.

¶ 10 On November 27, 2023, the State informed the court that it intended to seek joinder of the two cases because evidence underlying the charges was substantially intertwined. The State requested a short continuance to file its motion and advised the court that, if joinder were denied, it intended to change its election back to the murder case. The court continued the matter to November 30, 2023, on the State's motion, with Walker's demand for trial noted.

¶ 11 On November 30, 2023, the court heard the State's motion for joinder. The State argued that the firearm recovered from Walker's vehicle following his arrest was ballistically linked to the shooting underlying the murder charges. Defense counsel opposed joinder, arguing that trying the cases together would prejudice Walker by informing the jury of his prior felony conviction. The court denied the motion, concluding that joinder would improperly expose Walker's prior felony conviction to the jury, although evidence concerning the recovery of the firearm remained admissible in the murder case. Following the ruling, the State changed its election back to the murder case and requested a trial date of January 8, 2024. Walker confirmed that he would continue to demand trial, and the court granted the State's request.

¶ 12 On January 8, 2024, the State requested a continuance because it had been unable to locate one of its necessary witnesses and another necessary witness had been taken into federal custody. Walker maintained his demand for trial. The court granted the State's request and continued the matter to January 22, 2024, on the State's motion. The matter was subsequently continued to February 9, 2024, for trial.

¶ 13 On February 9, 2024, the State answered ready for trial on the murder case, and the court indicated that prospective jurors had been brought from another courthouse so the jury selection

could begin that day. Walker consulted with Drwencke, who raised a statutory speedy-trial objection and requested dismissal of both pending cases. Defense counsel argued that Walker had maintained his demand for trial since October 10, 2023, and that 122 days had elapsed without either case proceeding to trial. The State disputed Walker's calculation and maintained that the statutory period had not expired. The State also asserted that its changes of election were permissible strategic decisions.

¶ 14 The circuit court denied Walker's motion to dismiss, reasoning that the State was entitled to determine which case to prosecute first and concluding that the statutory speedy-trial period had not expired. Following the ruling, Walker requested that Drwencke represent him in the murder case and stated that he was not ready to proceed to trial without counsel. The court ultimately permitted Drwencke to file an appearance, and counsel requested a continuance to obtain discovery and prepare for trial. Walker withdrew his previously entered demand for trial, and the court continued the matter on Walker's motion and set a firm trial date of April 1, 2024.

¶ 15 On March 25, 2024, Walker filed a motion to reconsider the denial of his statutory speedy-trial motion. Walker maintained that his October 10, 2023, demand was unequivocal, that he had expressly objected to counsel's agreement to a continuance and that the State had failed to bring either case to trial within the statutory period. Following argument on March 28, 2024, the court denied the motion to reconsider.

¶ 16 On April 1, 2024, Walker waived his right to a jury trial, and the matter proceeded to a bench trial. Following the presentation of evidence, the court found Walker guilty of first-degree murder. The court subsequently denied Walker's posttrial motion and sentenced him to 50 years' imprisonment. This appeal followed.

¶ 17

II. JURISDICTION

¶ 18 The circuit court entered its final judgment on July 3, 2024. Walker filed his notice of appeal the same day. Accordingly, this court has jurisdiction pursuant to article VI, section 6, of the Illinois Constitution (Ill. Const. 1970, art. VI, § 6) and Illinois Supreme Court Rules 603 and 606 (eff. July 1, 2017).

¶ 19

III. ANALYSIS

¶ 20 Walker contends that the circuit court erred in denying his motion to dismiss because the State failed to bring him to trial within the 120-day period prescribed by section 103-5(a) of the Code of Criminal Procedure of 1963 (Code) (725 ILCS 5/103-5(a) (West 2022)). Walker argues that he demanded trial on October 10, 2023, and that the State did not answer ready for trial until February 9, 2024, 122 days later. The State responds that the October 10 to October 23 continuance was attributable to Walker because he sought to discharge appointed counsel while counsel was requesting time to discuss a newly tendered plea offer. The State alternatively argues that Walker's calculation improperly includes the period from October 23 to November 30, 2023, when the State elected to proceed on the firearm case and Walker indicated that he was not ready for trial on that charge.

¶ 21 Section 103-5(a) provides that a person in custody for an alleged offense must be tried within 120 days of being taken into custody unless delay is occasioned by the defendant or another statutory exception applies. 725 ILCS 5/103-5(a) (West 2022). A delay is considered agreed to by the defendant unless the defendant objects by making a written demand for trial or an oral demand for trial on the record. *Id.* Under section 103-5(f), delay occasioned by the defendant temporarily suspends the statutory period, which resumes when that delay expires. *Id.* § 103-5(f). An act of the

defendant that causes or contributes to delay may toll the statutory period. *People v. Cordell*, 223 Ill. 2d 380, 390-91 (2006).

¶ 22 Whether a defendant's statutory right to a speedy trial has been violated is a question of law we review *de novo*. *People v. Van Schoyck*, 232 Ill. 2d 330, 335 (2009). However, the circuit court must consider the particular facts and circumstances in determining whether a period of delay is attributable to the defendant. *People v. Cross*, 2022 IL 127907, ¶ 24. We give substantial deference to the circuit court's determination concerning the attribution and duration of delay and will not disturb that determination absent a clear showing of an abuse of discretion. *Id.*

¶ 23 To begin, we examine the postponement from October 10 to October 23, 2023. On October 10, the appointed attorney asked for additional time in order to review a plea proposal that the State had presented earlier that day. Walker expressly objected, requested permission to discharge counsel, and stated that he wanted to demand a speedy trial. But the court continued the matter to October 23 so that Walker could discuss the offer with counsel. Walker argues that because he objected to the continuance and sought to proceed to trial without counsel, the resulting delay cannot be attributed to him.

¶ 24 Generally, a continuance requested by defense counsel is attributable to the defendant. *People v. Mayo*, 198 Ill. 2d 530, 537 (2002). However, a defendant is not necessarily bound by counsel's agreement to a continuance when the defendant clearly and convincingly attempts to discharge counsel and proceed to an immediate trial. *Id.* (citing *People v. Pearson*, 88 Ill. 2d 210, 215 (1981)). In *Mayo*, the defendant requested permission to represent himself and demand trial after previously discharging appointed counsel, and then requesting reappointment of counsel. *Mayo*, 198 Ill. 2d at 538-39. Considering defendant's prior changes of position concerning representation and his statements at the hearing, our supreme court held that the circuit court did

not abuse its discretion by granting a short continuance before allowing him to waive counsel. *Id.* at 539-40.

¶ 25 We find the circumstances here support the circuit court's attribution of the October 10 continuance to Walker. Walker had previously discharged appointed counsel and represented himself but later requested the reappointment of counsel after informing the court that he was having difficulty understanding aspects of his case. When Walker again requested permission to represent himself on October 10, counsel had just received a plea offer below the statutory minimum and requested a short continuance to explain the offer and its implications for Walker's pending cases. The court expressly informed Walker that the offer warranted consideration and continued the matter for that purpose. It addressed his renewed request for self-representation at the next scheduled hearing, on October 23. We recognize that Walker's October 10 statements expressed his objection to the continuance and his desire to demand trial. But *Mayo* requires us to consider those statements in the context of the proceedings rather than in isolation. Given Walker's prior changes of position concerning representation, the newly tendered plea offer, and the limited duration and stated purpose of the continuance, we cannot conclude the court abused its discretion by attributing that delay to Walker. *Mayo*, 198 Ill. 2d at 538-40; *Cross*, 2022 IL 127907, ¶ 24.

¶ 26 Walker's reliance on *Pearson* and *People v. Hilliard*, 2022 IL App (1st) 200744, does not require a different conclusion. In *Pearson*, our supreme court determined that counsel's agreement to continuances could not be attributed to a defendant who clearly attempted to discharge counsel and proceed to an immediate trial. *Pearson*, 88 Ill. 2d at 215. In *Hilliard*, this court held that a continuance agreed to by counsel was not attributable to a defendant who consistently requested self-representation and demanded trial, where the circuit court did not acknowledge those requests or exercise its discretion in deciding whether to defer ruling on them. *Hilliard*, 2022 IL App (1st)

200744, ¶¶ 20-26. Here, by contrast, the court acknowledged Walker's request and explained that it was allowing a short continuance for counsel to discuss a newly tendered plea offer with him. Further, unlike the defendant in *Hilliard*, Walker had previously represented himself, requested the reappointment of counsel, and then sought to discharge counsel again. Although Walker expressly objected to the continuance, the court's decision to defer consideration of his renewed request for self-representation was made in circumstances analogous to those considered in *Mayo*. Thus, we find no abuse of discretion in attributing the October 10 to October 23 delay to Walker. *Mayo*, 198 Ill. 2d at 538-40.

¶ 27 The exclusion of this period defeats Walker's proposed calculation. He identifies 122 days between October 10, 2023, and February 9, 2024. But because the 13-day continuance from October 10 to October 23 is attributable to Walker, that period must be excluded from the calculation. Accordingly, Walker's calculation establishes, at most, 109 chargeable days during the period on which he relies.

¶ 28 The State presents an additional basis for rejecting Walker's speedy trial calculation. On October 23, 2023, the State changed its election from the murder case to the firearm case. When the circuit court asked Walker whether he was demanding trial on both cases, Walker stated that he needed additional time on the firearm case and had demanded trial only on the murder case. Walker responds that the State's changes of election were improper and could not suspend the statutory period. Section 103-5(e) governs the prosecution of multiple pending charges against a defendant held in simultaneous custody. 725 ILCS 5/103-5(e) (West 2022). Under that provision, the State must bring the defendant to trial or obtain an adjudication of guilt after waiver of trial, on at least one pending charge within the applicable initial statutory period, excluding delays attributable to defendant. *People v. Kliner*, 185 Ill. 2d 81, 123-24 (1998).

¶ 29 The State is not prohibited from changing its election concerning which pending charge it will prosecute first. *Kliner*, 185 Ill. 2d at 124. When the State changed its election, the speedy trial period for the unelected charge is tolled while the State proceeds on the newly elected charge. *Id.* at 123-24; *People v. Thompson*, 2012 IL App (2d) 110396, ¶¶ 15-16. Here, the State initially elected the murder case, changed its election to the firearm case on October 23, and changed its election back to the murder case on November 30 after the circuit court denied its motion for joinder. Although Walker characterizes the changes as an effort to circumvent the speedy trial statute, the record reflects that the State sought to join the cases based on the asserted ballistic connection between the recovered firearm and murder. The circuit court considered whether the State's October 23 change would circumvent the statutory requirements before permitting it. The changes of election, without more, do not establish that the State was prohibited from proceeding first on the firearm case. *Kliner*, 185 Ill. 2d at 124.

¶ 30 Accordingly, that period from October 23 to November 30, 2023, during which the State elected to proceed on the firearm case, is not chargeable to the State in calculating the speedy-trial period for the unelected murder case. Although Drwencke said that he was continuing the demand for trial in the firearm case on October 25, Walker had not demanded trial, in writing or orally, on the firearm charge, so there was no demand to continue. Even if the October 10 to October 23 continuance were charged to the State, Walker's proposed 122-day calculation would be reduced by the 38 days during which the firearm case was elected, resulting in 84 days chargeable to the State on the murder case. The State's permissible election provides an additional basis for rejecting the calculation on which Walker relies.

¶ 31 Finally, after the court denied the motion to dismiss on February 9, Walker stated that he was not ready to proceed to trial without counsel and requested that Drwencke represent him in

the murder case. The court ultimately permitted counsel to enter an appearance, and counsel requested a continuance to obtain discovery and prepare for trial. Walker withdrew his demand for trial, and the court continued the matter on Walker's motion. Because Walker has not established that the statutory period had expired before that continuance, the additional delay occasioned by his request for counsel does not support his claim of a speedy-trial violation. See 725 ILCS 5/103-5(a), (f) (West 2022); *Cordell*, 223 Ill. 2d at 390-91.

¶ 32

IV. CONCLUSION

¶ 33 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 34 Affirmed.