

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GEORGE L. JOHNSON,	§
	§
Defendant Below,	§
Appellant,	§ No. 569, 1999
	§
v.	§ Court Below: Superior Court
	§ of the State of Delaware in and
STATE OF DELAWARE,	§ for Sussex County
	§ Cr.A. No. S98-07-0240 and 0241
Plaintiff Below,	§
Appellee.	§

Submitted: August 22, 2000  
Decided: September 20, 2000

Before VEASEY, Chief Justice, WALSH and BERGER, Justices.

O R D E R

This 20<sup>th</sup> day of September 2000, upon consideration of the briefs of the parties, it appears to the Court as follows:

(1) The appellant, George L. Johnson (“Johnson”), appeals from his conviction in the Superior Court of attempted murder first degree and a related weapon charge. In this appeal, Johnson asserts two claims of error: (i) that the trial court abused its discretion in denying him a continuance to secure alibi witnesses and (ii) that the trial court erred in permitting the State to present evidence concerning the nature and extent of the victim’s injuries. We find no error and, therefore, affirm.

(2) Johnson was indicted on July 13, 1998 and extradited to Delaware in May, 1999 at which time he was assigned court-appointed counsel. On July 6, 1999, his case

was scheduled for final case review and assigned a trial date of September 20, 1999. At the final case review on September 17, defense counsel requested a continuance to contact three additional alibi witnesses. The court denied the request in view of the age of the case and the trial preparations made by the State, including arrangements to transport the victim, who is a paraplegic, to trial. On the morning of trial, defense counsel renewed the application for a continuance and the request was again denied.

(3) This Court reviews trial management decisions such as the grant or denial of a motion for a continuance under the abuse of discretion standard. *Riley v. State*, Del. Supr., 496 A.2d 997, 1018-19 (1985). This level of deference is particularly appropriate in reviewing rulings on continuance requests made on the eve of trial. We find no abuse of discretion in this case in view of the defendant's advance notice of the trial schedule and the inconvenience the State would suffer if an indefinite continuance were granted. In any event, considering the strength of the State's identification of the defendant as the assailant through the testimony of five witnesses, three of whom were emphatic in their testimony, Johnson's alibi defense was of doubtful validity. Under these circumstances, the Superior Court did not abuse its discretion by refusing to grant a continuance.

(4) We further conclude that the trial court did not abuse its discretion in overruling a defense objection to the State's presentation of evidence concerning the victim's injuries. The State was required to prove that the defendant had an intention

to kill the victim. 11 *Del. C.* § 636(a)(1). The seriousness of the victim's injuries, which in this case included paraplegia resulting from a gun shot wound, was relevant to the State's burden of proof. *Bailey v. State*, Del. Supr., 490 A.2d 158, 167 (1983).

Accordingly, we find no basis for disturbing the Superior Court's discretion in the admission of the evidence in this case.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is,

AFFIRMED.

BY THE COURT:

s/Joseph T. Walsh  
Justice