STATE OF LOUISIANA COURT OF APPEAL, SECOND CIRCUIT 430 Fannin Street Shreveport, LA 71101 (318) 227-3700

No. 55,827-KW No. 55,828-KW (Consolidated Cases)

STATE OF LOUISIANA

VERSUS

CHAD GEORGE

FILED: 02/28/24

RECEIVED: PM 02/27/24

On application of the State of Louisiana for SUPERVISORY WRIT in Nos. 58,351 and 58,929 on the docket of the Third Judicial District, Parish of UNION, Judge Thomas Wynn Rogers.

Counsel for:

John Fitzgerald Belton State of Louisiana

Amy Josephine Miller

Counsel for:

Anselm Nnaemeka Nwokorie Chad George

Before PITMAN, STONE, and STEPHENS, JJ.

WRIT GRANTED AND MADE PEREMPTORY.

The applicant, the State of Louisiana, seeks expedited review of the trial court's February 14, 2024 oral ruling setting this case for trial on its own motion.

Chad George has been charged by bill of information with possession with intent to distribute a Schedule II CDS in violation of La. R.S. 40:967(A)(1), possession of a Schedule IV CDS in violation of La. R.S. 40:969(C)(2), unlawful use of a social networking website (person has been convicted of a sexual offense) in violation of La. R.S. 14:91.5, and failure to register as a sex offender in violation of La. R.S. 15:542(C)(1) and (D).

On February 14, 2024, during a pre-trial conference, the State informed the trial court that a newly amended offer had been presented to George, which he would need time to consider. Nevertheless, the trial court set the matter for jury trial on March 25, 2024, after concluding that these matters had been pending for

more than three years and that George had time to consider the State's offers and could accept the plea at the final pretrial proceeding.

The district attorney has entire charge and control of every criminal prosecution instituted or pending in his district and determines who, when, and how he shall prosecute. La. C. Cr. P. art. 61.

La. C. Cr. P. art. 702 and Official Revision Comment (a) provides the following:

Cases shall be set for trial by the court on motion of the state and may be set for trial on motion of the defendant. Courts shall adopt rules governing the procedure for setting cases for trial.

This article preserves the basic right of the state to control the prosecution as was provided in Art. 17 of the 1928 Code. The same idea is expressed in Art. 61 of this Code, which provides that the district attorney determines when he shall prosecute.

Upon review of the writ application before us, we find that the trial court erred in setting this matter for trial absent a motion by the State or the defendant. *State v. Honore*, 23-00637 (La. 6/7/23), 361 So. 3d 960; *Burrell v. State*, 50,157 (La. App. 2 Cir. 1/13/16), 184 So. 3d 246, *writ denied*, 16-0523 (La. 5/2/16) 206 So. 3d 879; *State v. Lee*, 39,969 (La. App. 2 Cir. 8/17/05), 909 So. 2d 672, *writ denied*, 06-0247 (La. 9/1/06), 936 So. 2d 195.

Accordingly, the writ is granted and the trial court's February 14, 2024 ruling setting the matter for trial is reversed. This matter is remanded for further proceedings.

Shreveport, Louisiana, this <u>12</u>	2 day of	March		, 2024.
<u> 390 </u>	SDS		MS	
FILED: March 12, 2024				
Shandra Jaylor DEPUTY CLERK				