

FILED: February 21, 2013

IN THE COURT OF APPEALS OF THE STATE OF OREGON

STATE OF OREGON,
Plaintiff-Respondent,

v.

MARY BEDDINGFIELD, aka Marci Beddingfield,
Defendant-Appellant.

Clackamas County Circuit Court
CR0801345

A148892

Steven L. Maurer, Judge.

Submitted on January 04, 2013.

Peter Gartlan, Chief Defender, and Zachary Lovett Mazer, Deputy Public Defender, Office of Public Defense Services, filed the brief for appellant.

Ellen F. Rosenblum, Attorney General, Anna M. Joyce, Solicitor General, and Jeremy C. Rice, Assistant Attorney General, filed the brief for respondent.

Before Schuman, Presiding Judge, and Wollheim, Judge, and Duncan, Judge.

PER CURIAM

Reversed and remanded for entry of judgment of dismissal.

1 PER CURIAM

2 Defendant was convicted of felony driving under the influence of
3 intoxicants, ORS 813.010, and driving while suspended, ORS 811.182. On appeal, she
4 argues that the trial court erred in denying her motion to dismiss the indictment on
5 statutory speedy trial grounds, because she was "not brought to trial within a reasonable
6 period of time." ORS 135.747. Specifically, she argues that more than two years passed
7 between the state's issuance of a secret indictment and warrant and her subsequent arrest-
8 -a delay attributable to the state, which knew defendant's most recent address but instead
9 attempted to serve the warrant on her at two different addresses.

10 In response, the state concedes that "26 months elapsed between
11 defendant's indictment and her eventual arrest." The state further agrees with defendant
12 that, "on the record before this court, that 26-month period is properly attributable to the
13 state and that the information in the record does not demonstrate that that delay was
14 reasonable under the circumstances of the case." Accordingly, the state concedes, "the
15 trial court erred in denying defendant's motion to dismiss."

16 We agree with and accept the state's concession of error. The delay in
17 bringing defendant to trial was unreasonable under the circumstances, and the court
18 should have granted defendant's motion to dismiss. *See State v. Johnson*, 339 Or 69, 89,
19 116 P3d 879 (2005) (where "nothing in the record * * * supports the conclusion, or even
20 the implication, that there was good cause for the 21-month delay," the state "failed to
21 bring defendant to trial within a 'reasonable period of time' under ORS 135.747"). We
22 therefore reverse and remand.

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Reversed and remanded for entry of judgment of dismissal.