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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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VERTEFEUILLE, J., dissenting. I agree with the majority's conclusion that administrative negligence generally does not constitute "good cause" for the state's failure to bring a defendant to trial within the thirty day period following his filing of a motion for a speedy trial. I believe, however, that we must address *the effect* of that incompetence in the present case, namely, that the defendant, James A. McCahill, was not brought to trial because the court personnel who are charged with management of criminal cases had no actual notice of his request for a speedy trial. I conclude that the absence of such notice constitutes good cause for the failure to bring the defendant to trial. Accordingly, I dissent.

The plain language of General Statutes § 54-82m[1] directs the judges of the Superior Court to adopt the procedural rules necessary "to assure a speedy trial for any person charged with a criminal offense . . . ." Section 54-82m (2) further mandates that the rules require the filing of a motion for a speedy trial and the allowance of an additional thirty days for trial to begin before the information can be dismissed. Thus, unlike the speedy trial statutes in many other states, our statute specifically requires the filing of a motion for speedy trial and a thirty day period within which the defendant can be brought to trial before the information can be dismissed.[2]

The significance of our requirement of a motion for a speedy trial is revealed in the legislative history of § 54-82m. The provision requiring a motion for a speedy trial and a thirty day period thereafter for trial to begin was adopted by amendment during the floor debate in the House of Representatives on the bill underlying § 54-82m. As originally proposed, the bill simply mandated the dismissal of an information on motion by the defendant after the expiration of the time limit in the bill without trial having started. Substitute Senate Bill No. 17. The purpose of the amendment to the proposed bill was to protect against dismissal of the information based on oversight or negligence by requiring the filing of a motion for a speedy trial and an additional thirty days thereafter within which the trial could begin. "[The amendment] says, once you reach the [twelve] months that they're incarcerated or the [eighteen] months[3] if they're not incarcerated, the defendant has to petition the court and the court has another [thirty] days to commence the trial before that individual could be let go. *It gives the state another crack from preventing that individual from being set free.*" (Emphasis added.) 25 H.R. Proc., Pt. 18, 1982 Sess., p. 5768, remarks of Representative Christopher Shays. Additionally, in support of the amendment, Representative Robert G. Jaekle

stated: "*I think the most important part of this amendment is the trigger mechanism*. The file copy indicates that if somebody's trial is not commenced within either [twelve] or [eighteen] months of the date of arrest, that upon their motion, the case will be dismissed. Now [twelve] and [eighteen] months, I know it sounds like a long period of time to some. In our court system, that is a speedy trial. In order to prevent [defendants] being released because the [s]tate . . . could not comply with the [twelve] and [eighteen] month deadlines, or worse yet, *some prosecutor has not properly diaried or scheduled a trial*, the case cannot be dismissed until the [twelve] or [eighteen] month period expires and the defendant makes a motion that the trial, indeed [be] commenced.

"At that point the state has [thirty] days to commence the trial and therefore prevent the case from being dismissed. *I look at this as an important safeguard in case the [s]tate . . . some prosecutor has forgotten the [twelve] or [eighteen] month deadline. This motion will be a reminder, aha, I forgot, and the state will have [thirty] days to put its case together and prevent possibly a guilty individual from being set free on unfortunately, a technicality. . . . [E]verybody would have notice of the official motion at that point* . . . ." (Emphasis added.) Id., pp. 5769–70. The legislative purpose in requiring the filing of a motion for a speedy trial and an additional thirty days thereafter for trial to begin could not be more clear: the information was not to be dismissed until the defendant gave notice of his demand for a speedy trial and there was one final opportunity for the state to bring the defendant to trial.

The good cause exception to the failure to bring a defendant to trial within thirty days after the filing of a speedy trial motion is found in Practice Book § 43-41,[4] which provides that "good cause consists of any one of the reasons for delay set forth in Section 43-40. . . ." Practice Book § 43-40 enumerates several criteria to be excluded for purposes of calculating speedy trial time; the last is "periods of delay occasioned by exceptional circumstances." Practice Book § 43-40 (10). As a result of these two Practice Book provisions, "exceptional circumstances" are "good cause" for the failure to commence trial within the thirty days following the defendant's filing of a motion for a speedy trial.

I would conclude that the circumstances in the present case were exceptional within the meaning of § 43-40 (10) and, therefore, good cause existed under § 43-41 for the failure to bring the defendant to trial within the applicable thirty day period. The good cause, quite simply, was the fact that court personnel with case management responsibilities had no knowledge that the motion had been filed.[5] The consequence of the misfiling of the defendant's motion for a speedy trial in the clerk's office was that none of the persons who

normally would respond to the defendant's demand by scheduling the trial—the presiding criminal judge, the part A criminal clerk, or the criminal caseflow coordinator—was aware of the need to do so. Consequently, the legislative purpose in requiring the filing of the motion—to provide one last chance for the defendant to be put on trial—was not realized. As a result of the misfiling, the state and the court were not given ''a reminder'' as Representative Jaeckle wanted; 25 H.R. Proc., supra, p. 5770; or ''another crack,'' as Representative Shays described it, at putting the defendant on trial.[6] Id., p. 5768.

My conclusion is supported by case law in other jurisdictions interpreting similar provisions of other state speedy trial rules or statutes. The Iowa Supreme Court recently interpreted the good cause provision of its speedy trial rule in *State* v. *Miller*, 637 N.W.2d 201 (2001). ''We have repeatedly said that, under our rule, good cause focuses on only one factor: the reason for the delay.'' (Internal quotation marks omitted.) Id., 205. ''[T]he question is not whether the delay was great or small but whether the reason given justifies departure from the rule at all.'' Id.

In the present case, the reason for the delay was that both the court and the state were unaware of the need to begin the defendant's trial. I find it difficult to imagine a more reasonable justification for failing to respond to a speedy trial demand than ignorance of the demand itself.

The Illinois Appellate Court recently concluded that criminal charges should not be dismissed in a case where the speedy trial demand failed to give *actual* notice to the state of the defendant's demand. In *People* v. *Milsap*, 261 Ill. App. 3d 827, 829, 635 N.E.2d 1043 (1994), the defendant submitted a speedy trial demand under a caption that read '' 'Demand For Final Disposition.' '' The defendant filed this demand ''among a sheaf of papers,'' the other pages of which referred to an unrelated case involving the defendant. Id. The demand also failed to set forth certain information required under the Illinois rules of practice.

The Illinois Appellate Court began its analysis by noting that ''[s]peedy trial issues are to be determined so as to give effect to the legislative intent, and not by a mechanical application of the statutory language.'' Id., 830. The same court previously had held that ''speedy trial provisions impose a burden on [a] defendant to file a demand sufficient to put the State's Attorney on notice that the defendant is invoking his right to a speedy trial under the statute.'' Id., 831, citing *People* v. *Ground*, 257 Ill. App. 3d 956, 959–60, 629 N.E.2d 783 (1994). The Illinois Appellate Court in *Milsap* reversed the trial court's judgment dismissing the charges, concluding that the defendant's demand ''was not clear and unequivocal . . . . [H]is request was not clear enough

to put the [s]tate on notice that he was requesting a speedy trial in this case. *The [s]tate is entitled to know when the speedy trial clock has begun to run. . . . The [s]tate here did not have actual notice that a speedy trial request had been made . . . .*'' (Citations omitted; emphasis added.) *People* v. *Milsap*, supra, 261 Ill. App. 3d 831–32.

This court also must interpret the speedy trial provisions of our statutes, and the rules of practice adopted pursuant thereto, so as to give effect to the legislative intent. The clear legislative intent of our speedy trial statute was to require a defendant to give notice of his demand for a speedy trial and to provide one final opportunity for him to be brought to trial. In the present case, the court personnel who had the responsibility to schedule the defendant's trial never received actual notice of this critically important demand. I therefore disagree with the result of the majority's reasoning, which is that court personnel who were unaware of the defendant's speedy trial demand nevertheless are responsible for failing to respond to it, with the result that a defendant convicted of two serious crimes must be set free.

Accordingly, I respectfully dissent.

[1] For the full text of § 54-82m, see footnote 1 of the majority opinion.

[2] We note that state speedy trial statutes generally appear to be of two types. The first type does not require that the defendant move the court for a speedy trial. Instead, if the defendant is not brought to trial within a specified period of time, the defendant moves the court for a dismissal of the charges or the charges are dismissed automatically. Under these statutory schemes, the state then has the burden of demonstrating that the reason or reasons for delay in bringing the defendant to trial fall within certain enumerated exceptions to the established time frame. See, e.g., 725 Ill. Comp. Stat. Ann. § 5/103-5 (West 2003); Neb. Rev. Stat. §§ 29-1207 and 29-1208 (1995); N.Y. Crim. Proc. Law §§ 30.30 and 170.30 (McKinney 2003). The second type of speedy trial statute is the type we have here in Connecticut. In these statutes, in order to obtain a dismissal of the charges, the defendant must first notify the court of his desire for a speedy trial by moving or making a demand for a speedy trial. See also Mass. Gen. Laws. Ann. c. 212, § 29 (Lexis 1999); Mo. Rev. Stat. § 545.780 (2000).

[3] As adopted, the speedy trial statute, General Statutes §§ 54-82*l* and 54-82m, anticipated an incremental change in the applicable time periods in which a defendant was to be brought to trial. Section 54-82*l* was to be effective July 1, 1983, and included time periods of eighteen months for nonincarcerated defendants and twelve months for incarcerated defendants. Section 54-82m was to be effective July 1, 1985, and set these time periods as twelve months and eight months, respectively. The delayed implementation of the shorter time frame allowed the judicial system to adjust to and manage the costs and other requirements of increased efficiency.

[4] For the full text of Practice Book § 43-41, see footnote 2 of the majority opinion.

[5] I focus solely on the misfiling of the speedy trial motion in the clerk's office and its consequence for criminal case management personnel. In accordance with the Rules of Professional Conduct, the actions of the nonlawyers working in the prosecutor's office are the responsibility of the state's attorney. Rule 5.3 of the Rules of Professional Conduct provides in relevant part: ''With respect to a nonlawyer employed or retained by or associated with a lawyer . . . (2) A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that person's conduct is compatible with the professional obligations of the lawyer . . . .'' The state's attorney's office has rightfully accepted responsibility for the lapse of its staff person.

[6] I further disagree with the majority's unduly restrictive interpretation of the good cause requirement in Practice Book § 43-41. The majority relies

largely on *State* v. *Brown*, 242 Conn. 389, 404–405, 699 A.2d 943 (1997), in concluding that there must be a showing of "necessity" for good cause. *Brown* was decided *prior* to the time that Practice Book § 43-41 provided a good cause exception and therefore offers no guidance as to the proper interpretation of good cause. In *Brown*, this court found an *implied* necessity exception in the speedy trial rules of practice because there was no explicit good cause exception at the time. See id., 407.