

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID M. DAVIS,)
) No. 97, 2004
 Defendant Below,)
 Appellant,) Court Below: Superior Court of
 v.) the State of Delaware in and
) for New Castle County
)
 STATE OF DELAWARE,) Cr. A. Nos. IN02110195 and
) IN02110199
 Plaintiff Below,)
 Appellee.)

Submitted: November 3, 2004

Decided: December 30, 2004

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 30th day of December 2004, on consideration of the parties' briefs, it appears to the Court that:

1. David M. Davis appeals his convictions of rape and other offenses in the Superior Court, claiming the trial judge abused her discretion by granting the State's request for a continuance beyond the statutory 180-day trial window mandated by the Interstate Agreement on Detainers ("IAD").¹ The State opposes, contending that a medical-examiner backlog in processing DNA samples justified the delay. Given the reasonable duration of the delay, Davis's own desire to learn

¹ 11 *Del. C.* §§ 2540-2550.

the results, and the medical examiner's backlog, the trial judge had good cause to grant the continuance. Accordingly, we affirm.

2. Wanted in Delaware on a variety of rape and kidnapping charges, Maryland authorities initially arrested and convicted Davis on unrelated drug charges in July 2002. Following a November 2002 indictment, Davis was extradited to Delaware. On May 30, 2003, Davis made a written request for disposition of the pending charges within the statutorily-prescribed 180-day window.² Also in May, nearly six months after indicting Davis, the State collected a sample of Davis's DNA.

3. After one continued case review the Superior Court scheduled a jury trial for October 15, 2003. The day before trial, the State sought a continuance, claiming that the Medical Examiner's Office, laboring under a six- to eight-month backlog, required additional time to process Davis's DNA report. Although he objected to the State's request, Davis refused to waive the pretrial DNA testing. Over Davis's objection, the trial judge continued the trial to December 16, 2003, three weeks after the prescriptive period lapsed. Following trial, the jury convicted Davis of first-degree rape, first-degree attempted rape, and terroristic threatening.³

² See 11 Del. C. § 2542(a).

³ *State v. Davis*, Del. Super., I.D. No. 00344511 (Dec. 18, 2003).

Davis now appeals the trial judge's decision to grant the continuance, asserting the State failed to show good cause for delaying trial past the statutory 180-day period.

4. In *Smith v. Hooey*, the United States Supreme Court extended the Sixth Amendment's speedy trial guarantee to inmates in one jurisdiction facing charges in another.⁴ Prosecutors thus have a constitutional duty to make a "diligent, good-faith effort" to bring inmates to trial within reasonable time limits.⁵ Courts must also "carefully weigh the reasons for the delay in bringing an incarcerated defendant to trial."⁶

5. Promulgated in response to *Hooey's* strictures, the IAD seeks "to obviate difficulties in securing speedy trials of persons incarcerated in other jurisdictions and to minimize the time during which there is an inherent danger that a prisoner may forego preferred treatment or rehabilitative benefits. . . ."⁷ As adopted in Delaware, the IAD provides that prisoners "shall be brought to trial within 180 days after the prisoner shall have . . . delivered . . . written notice of the place of imprisonment and the request for a final disposition of the indictment. . .

⁴ 393 U.S. 374 (1969).

⁵ *Id.* at 383.

⁶ *Moore v. Arizona*, 414 U.S. 25, 26 (1973).

⁷ *Pristavec v. State*, 496 A.2d 1036, 1038 (Del. 1985), citing *State v. Dunlap*, 290 S.E.2d 744, 745-46 (N.C. Ct. App. 1982).

.”⁸ “[F]or good cause shown in open court,” however, the trial judge may grant “any necessary or reasonable continuance.”⁹ We review under an abuse of discretion standard, and will reverse only where the trial judge’s decision is based on “clearly unreasonable or capricious grounds.”¹⁰

6. Davis argues that because he was investigated and indicted in late 2002, the State had ample opportunity to obtain his DNA well before it did in May 2003. Had the State done so, according to Davis, any medical-examiner delay would have been mitigated. Under these circumstances, the State would have had no need to seek a continuance beyond the 180-day prescriptive period.

7. Nationally, courts have disagreed on the parameters of “reasonable” grounds for granting continuances.¹¹ Many require a showing of prejudice to warrant dismissal after the statutory period has expired.¹² Under a similar IAD

⁸ 11 *Del. C.* § 2542(a).

⁹ *Id.*

¹⁰ *Trawick v. State*, 845 A.2d 505, 506-507 (Del. 2004).

¹¹ See, e.g., *United States v. Ford*, 550 F.2d 732, 742-43 (2d Cir. 1977) (holding that trial judges must reassign cases they cannot hear within statutory time period), *aff’d sub nom. United States v. Mauro*, 436 U.S. 340 (1978); *Foran v. Metz*, 463 F. Supp. 1088, 1097-98 (S.D.N.Y. 1979) (allowing continuance based on prosecutor’s three-week vacation), *aff’d*, 603 F.2d 212 (2d Cir. 1979), *cert. denied*, 444 U.S. 830 (1979). But see Thomas R. Clark, Note, *The Effect Of Violations Of The Interstate Agreement On Detainers Of Subject Matter Jurisdiction*, 54 *FORDHAM L. REV.* 1209, 1238 (1986) (“In light of the policies that the IAD reflects, it is unlikely that a prosecutor’s vacation is a reasonable ground for delay in prosecution.”).

¹² See Leslie W. Abramson, *The Interstate Agreement on Detainers: Narrowing its Availability and Application*, 21 *N.E. J. ON CRIM. & CIV. CON.* 1 n.130 (1995) (collecting cases).

provision, we have held that cumulative delays brought on by witness and medical examiner unavailability, including an arresting officer's vacation, constituted good cause to warrant continuing the date of trial.¹³

8. Here, the record reflects only a three-week delay. Furthermore, Davis refused to waive pretrial testing because he wanted to learn the results of the delayed DNA report. The confluence of these factors created a reasonable ground for granting the State's request. The trial judge properly found that, based on the medical examiner's backlog, the State showed good cause to delay trial. Accordingly, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

¹³ *Wells v. State*, 1992 Del. LEXIS 255, at *9-10 (interpreting identical "good cause" language in 11 *Del. C.* § 2543(c)).