

# Third District Court of Appeal

## State of Florida

Opinion filed September 18, 2019.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D18-1848  
Lower Tribunal No. 18-757A

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**A.L., a juvenile,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Dawn Denaro, Judge.

Carlos J. Martinez, Public Defender, and Robert Kalter, Assistant Public Defender, for appellant.

Ashley Moody, Attorney General, and Christina L. Dominguez, Assistant Attorney General, for appellee.

Before **SALTER, MILLER** and **GORDO, JJ.**

**SALTER, J.**

In this appeal, a juvenile appeals the denial of his motion for discharge based on the trial court's determination that a continuance of trial was properly chargeable to the juvenile. We affirm, finding no abuse of discretion in the trial court's characterization, and thus no failure to comply with the applicable speedy trial rule, Florida Rule of Juvenile Procedure 8.090.

Trial of the juvenile's case was continued once by agreement and in an exchange of emails between the offices of the Public Defender and the State Attorney. As the case neared the trial date and expiration of the speedy trial period, the State moved for a second continuance. Plea negotiations continued before the scheduled hearing on the motion, again via email. At that point the assigned assistant public defender emailed opposing counsel that the juvenile "is taking the plea," a plea which had been specified earlier in the email thread.

Based on that communication, the State withdrew its motion for continuance at a hearing only days before the date scheduled for trial and expiration of the speedy trial period. Based on the representations of counsel at the hearing, the trial court instructed the courtroom deputy to change the date set for trial to "re plea." When the parties reported on that date, however, the case against the juvenile's co-respondent was nolle prossed because a key witness was unavailable. The juvenile then rejected the plea, and shortly thereafter, moved for dismissal and final discharge.

The trial court denied the motion for discharge. The juvenile was adjudicated delinquent and placed on probation. This appeal followed.

The trial court's attribution of the continuance to the respondent was not an abuse of discretion. Rule 8.090(d) contains various exceptions to a juvenile's entitlement to discharge, and one of those exceptions, 8.090(d)(3), applies when "[t]he failure to hold an adjudicatory hearing is attributable to the child, or his or her counsel."

Turning to the counterpart speedy trial rule in the Florida Rules of Criminal Procedure, 3.191,<sup>1</sup> two analogous cases support the trial court's determination in this case. In Collins v. State, 489 So. 2d 133 (Fla. 1st DCA 1986), the defendant's prior announcement of an intent to enter a plea of guilty or nolo contendere on June 4 was a valid basis for the denial of his motion for discharge after he declined to enter such a plea when brought to court on July 8, the 181st day following his arrest.

And in State v. Rosenfeld, 467 So. 2d 731 (Fla. 3d DCA 1985), this Court reversed a trial court order discharging the defendant after she moved to withdraw her plea just before the speedy trial time passed, obtained a favorable ruling on the motion after that time had passed, and then moved for discharge.

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<sup>1</sup> See P.S. v. State, 658 So. 2d 92, 93 n.2 (Fla. 1995) (Rules 3.191 and 8.090 form a "continuum within which all aspects of speedy trial lie in neat relationship and are to be read in *pari materia*," citing J.B. v. Korda, 436 So. 2d 1109, 1110 (Fla. 4th DCA 1983)).

For these reasons, the order denying the juvenile's motion for final discharge is affirmed.