

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM A.D., 2004

THE STATE OF FLORIDA,

\*\*

Petitioner,

\*\*

vs.

\*\* CASE NO. 3D04-2266

TOMAS A. RIERA,

\*\*

Respondent.

\*\* LOWER TRIBUNAL  
CASE NO. 03-278AC

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Opinion filed December 22, 2004.

A Writ of Certiorari to the Circuit Court for Miami-Dade County, Pedro P. Echarte, Jr., C. David Miller, and Kevin Emas, Judges.

Charles J. Crist, Jr., Attorney General, and Meredith L. Balo, Assistant Attorney General, for petitioner.

Bennett H. Brummer, Public Defender, and Thomas Regnier, Assistant Public Defender, for respondent.

Before GREEN, FLETCHER, and RAMIREZ, JJ.

PER CURIAM.

We deny the State's petition for certiorari review of the circuit court appellate decision which reversed the trial court's denial of a state-charged continuance, thereby

discharging the defendant upon the expiration of the speedy trial period. Fla. R. Crim. P. 3.191.

The circuit court, sitting in its appellate capacity, followed the essential requirements of the law. The defense had been diligent in preparing its case and demanding discovery; the state was not similarly diligent as it repeatedly failed to provide essential discovery as requested by defense counsel, and was repeatedly admonished by the trial court for failing to do so. The state's inordinate failure to provide fundamental and valuable discovery until the very last day of the speedy trial recapture period reasonably and effectively prejudiced the defense in preparation of its case, and would delay the trial date past all of the speedy trial deadlines. Under the circumstances, the defense properly refused to waive its speedy trial rights.

Given the facts of this case, discharge of the defendant was the proper remedy under the speedy trial rule. Any other result would compromise the purposes of the speedy trial rule, and set a precedent for allowing the state to delay providing requested discovery with no concomitant penalty. It would also, in some cases, force defense counsel to compromise its preparation of a fair and competent defense.

Petition for writ of certiorari denied.