

STATE OF LOUISIANA

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NO. 2011-K-1186

VERSUS

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COURT OF APPEAL

KENNETH BARNES

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FOURTH CIRCUIT

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STATE OF LOUISIANA

ON APPLICATION FOR WRITS DIRECTED TO
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 488-187, SECTION "B"
HONORABLE LYNDA VAN DAVIS, JUDGE

JUDGE MICHAEL E. KIRBY

(Court composed of Judge Michael E. Kirby, Judge Max N. Tobias, Jr., Judge Paul A. Bonin)

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WRIT GRANTED; JUDGMENT REVERSED.

The State of Louisiana seeks this Court's review of the trial court's denial of the joint motion for continuance of trial scheduled for September 1, 2011. The defendant, Kenneth Barnes, filed the motion for continuance and the State of Louisiana joined in the defendant's motion. The defendant has filed his own writ application seeking review of the trial court's denial of the motion in 2011-K-1185.

This Court has previously found, in unpublished writ dispositions, that it is an abuse of the trial court's discretion to deny a motion for continuance when both sides in a criminal case agree to a continuance of trial. La. C.Cr.P. art. 707; *State v. Lee*, 11-1176, unpub. (La.App. 4 Cir. 8/25/11); *State v. Richardson*, 09-0953, unpub. (La.App. 4 Cir. 7/20/09); *State v. King*, 11-0243, unpub. (La.App. 4 Cir. 2/18/11); *State v. Terry*, 11-0245, unpub. (La.App. 4 Cir. 2/18/11). In the instant case, the trial court, on August 26, 2011, denied the joint motion for continuance of the trial scheduled for September 1, 2011. We find that this was an abuse of the trial court's discretion. Accordingly, we grant the State's writ application and reverse the trial court judgment denying the continuance. We hereby grant the

continuance of the September 1, 2011 trial date. Because of our decision, the request for a stay is moot.

WRIT GRANTED; JUDGMENT REVERSED