

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA * **NO. 2015-KA-0136**
VERSUS *
CHAKA STEWART * **COURT OF APPEAL**
* **FOURTH CIRCUIT**
* **STATE OF LOUISIANA**

* * * * *

APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 507-866, SECTION "G"
Honorable Byron C. Williams, Judge

* * * * *

Judge Daniel L. Dysart

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(Court composed of Chief Judge James F. McKay, III, Judge Daniel L. Dysart,
Judge Joy Cossich Lobrano)

LOBRANO, J., CONCURS IN THE RESULT

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REVERSED

SEPTEMBER 16, 2015

Appellant, the State of Louisiana, appeals the trial court's judgment granting a motion to quash filed by appellee, Chaka Stewart, on the basis that the State did not timely bring Mr. Stewart to trial pursuant to La. C.Cr.P. art. 578. This case presents the identical issues raised in the matter entitled *State of Louisiana v. Chaka Stewart*, case no. 2015-KA-0135. As we found in *State of Louisiana v. Chaka Stewart*, case no. 2015-KA-0135, the time limitation for commencing trial against Mr. Stewart was interrupted by his failure to appear in court after receiving actual notice of the next court date. It remained interrupted until notice of Mr. Stewart's incarceration in Arkansas was filed into the record on April 30, 2014 by the surety.

The record in this matter reflects that, on August 3, 2011, Mr. Stewart was charged with three counts of drag racing resulting in serious bodily injury, a violation of La. R.S. 32:65.¹ The docket report and minute entries indicate that,

¹ The bill of information mistakenly cites the statute as "La. R.S. 30:65." This discrepancy was not raised by Mr. Stewart. We note that, as here, where a bill of information gives fair notice of the crime of which a defendant is charged, it sufficiently complies with La. C.Cr.P. art. 464 and

when Mr. Stewart appeared for his arraignment on August 8, 2011, his case was “transferred to Section ‘G’ to follow case(s) 507-111.”²

On September 14, 2011, Mr. Stewart entered a plea of not guilty to the charges, at which time bond was set. Beginning on November 10, 2011, Mr. Stewart’s appearances in court mirrored the appearances he made in case no. 507-111; on each occasion Mr. Stewart appeared, the trial court took both cases into consideration. A short chronology of the events that occurred beginning on November 10, 2011 and Mr. Stewart’s last appearance in court is as follows:

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|-------------------|---|
| November 10, 2011 | Mr. Stewart appeared with counsel for hearings on motions; the hearings were continued by joint motion to January 19, 2012. |
| January 19, 2012 | Mr. Stewart appeared with counsel for preliminary hearing; the trial court found insufficient probable cause to substantiate the charges against him. Trial set for January 24, 2012. |
| January 24, 2012 | Mr. Stewart appeared with counsel for trial, which was continued by joint motion and re-set for March 27, 2012, with a status hearing on February 9, 2012. |
| February 9, 2012 | Mr. Stewart appeared with counsel for status hearing; court was not in session and hearing re-set to March 27, 2012. |
| March 27, 2012 | Mr. Stewart appeared with counsel for status hearing; trial set for May 17, 2012. Notices were sent and Mr. Stewart was notified in court. |
| May 27, 2012 | Docket master indicates “Defendant, Chaka Stewart, appeared without counsel for trial. The defendant is in federal custody and was not [sic] State to |

does not mislead a defendant to his prejudice. *See State v. Phillips*, 10-0582, pp. 10-11 (La. App. 4 Cir. 2/17/11), 61 So. 3d 130, 137.

² By way of a separate bill of information dated June 29, 2011, in case no. 507-111, Mr. Stewart was charged with one count of possession of marijuana, second offense, one count of possession with the intent to distribute heroin, and one count of possession with the intent to distribute cocaine.

file a writ to secure defendant's presence. Trial continued to 6/27/2012."³

Thereafter, there were numerous court dates set and, on each of those dates, it was noted that Mr. Stewart was in federal custody. We refer to our opinion in case no. 2015-KA-0135 for a detailed discussion as to all of the events that occurred during this time, as those events pertain to both cases.

As noted, this case presents the identical issues raised in *State of Louisiana v. Chaka Stewart*, case number 2015-KA-0135. Accordingly, we adopt the analysis and discussion of that opinion as though set forth fully herein. Based on those reasons, we reverse the trial court's judgment and remand this matter for further proceedings.

REVERSED

³ The record does not contain a minute entry for this date. We note that this notation in the docket master is internally inconsistent. It states that Mr. Stewart appeared without counsel and then notes that the State will file a writ to secure Mr. Stewart's presence. In the companion case, no. 507-111, both the docket master and the minute entry reflect that Mr. Stewart did **not** appear in court that date. Rather, they both reflect that Mr. Stewart "is in federal custody and was not brought into open court. State to file writ to secure [his] presence." Based on the inconsistency in the docket master notation, it is clear that the docket master notation from case no. 507-111 is accurate.