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Criminal law & procedure – continuances

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Trial court abused its discretion in 'reflexively, arbitrarily and mechanically' denying defense counsel's request for a continuance in connection with a double-murder trial on the basis that she had been on trial for two days before the trial was scheduled and was unprepared to try the case on the date scheduled.

The Illinois Supreme Court has reversed a ruling by the Appellate Court.

In June 1992, Terrance Walker, 15, was charged with the first-degree murders of Terry Matthews and Damian Stafford. On Nov. 19, 1993, a motion to suppress statements was filed by Viola Armijo Rouse, an assistant public defender. The motion alleged that a confession made by the defendant was the result of the police improperly questioning the defendant without the presence of a parent or youth officer.

Rouse indicated that the defendant would be waiving a jury trial. The trial court inquired whether defense counsel was withdrawing her pending motion to suppress and Rouse responded that she was exploring whether there could be a "possible disposition of the case." The court said it could consider the motion "along with the trial" and a trial date was set for Jan. 20, 1994.

On Jan. 20, the defendant's case was called for trial and the state answered that it was ready to proceed. Defense counsel asked for a continuance, telling the court that she had misdocketed the trial for Jan. 26, that she had been on trial the two days before Jan. 20 and that she was not prepared for a trial in the defendant's case.

The trial court said it was "irrelevant" that defense counsel wasn't prepared for trial. After the trial began,

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defense counsel waived an opening statement and conducted only brief cross-examination of the state's witnesses. After the prosecutor agreed with defense counsel's proposed stipulation regarding the evidence, the defense rested.

In its closing argument, the state emphasized that the defendant's inculpatory statement was the key evidence in the case. Defense counsel, in her closing argument, asked that the defendant be found not guilty on the basis that the statement showed that he and his family had been threatened by the victims.

The trial court found the defendant guilty of the first-degree murder of Matthews and the second-degree murder of Stafford. The court stated that it was exclusively relying on the defendant's confession.

In Marcy 2006, the defendant was permitted to reopen his case on the basis that the trial court failed to properly admonish the defendant with regard to his appeal rights after the trial. The defendant filed a notice of appeal with the appeals court and argued that the trial court erred in denying his trial counsel's request for a continuance when she told the court she was unprepared for trial and that his trial counsel was ineffective for failing to prepare for trial, failing to ask for a ruling on the motion to suppress the confession and failing to file a post-trial motion.

The appeals court affirmed the defendant's convictions, rejecting his arguments that his trial counsel was ineffective and that the trial court erred in denying his attorney's request for a continuance and commencing trial when she indicated she was unprepared.

The Supreme Court reversed the trial and appeal courts.

"We hold that the record clearly established that the trial court completely failed to exercise discretion in ruling on defense counsel's request for a continuance of defendant's trial, as it is devoid of evidence showing that the circuit court considered any of the relevant factors in denying the continuance," the Supreme Court said. "The record supports the inescapable conclusion that the circuit court mechanically denied the continuance without engaging in thoughtful consideration of the specific facts and circumstances presented in this matter."

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The court said that, prior to trial, there was no pattern of delay caused by the defendant and that the Jan. 20, 1994, trial date was the first trial date set by the parties. The Supreme Court said there was nothing in the record showing that the trial court considered the relevant factors of the diligence of defense counsel and her inability to prepare because she had been on trial in another case.

In addition, the Supreme Court said that the circuit court made no comment regarding the interests of justice, the severity of the double-murder charges or the complexity of the case. The circuit court also made no mention of docket management, judicial economy or inconvenience to the parties or witnesses in connection with the continuance request.

"We note that counsel was not even afforded the opportunity to inform the court as to how long of a continuance she sought, which would be important to a court's consideration of a continuance request," the Supreme Court said. "In addition, defendant requested a bench trial, which would have been relevant to the court's ruling, as it may have been more easily rescheduled than a jury trial. Further, the four witnesses that were present to testify for the state's case in chief were employees of the Chicago police department or the state's attorney's office based in Chicago, and the record reflects that the state did not make an objection to defense counsel's request for continuance."

The Supreme Court said the conclusion was "inescapable" that under the facts, the trial court "completely abdicated" its responsibility to conduct an informed deliberation of defense counsel's motion and instead "immediately and reflexively" denied the continuance request on the sole basis that the case had been set for trial.

The Supreme Court ordered a new trial for the defendant.

People v. Terrance Walker, [No. 105437](#). Justice [Charles E. Freeman](#) wrote the court's opinion with Chief Justice [Thomas R. Fitzgerald](#) and Justices [Robert R. Thomas](#), [Thomas L. Kilbride](#), [Rita B. Garman](#), [Lloyd A. Karmeier](#) and [Anne M. Burke](#) concurring. Released Jan. 23, 2009.