

# REVIEW OF RECENT CASES: SPEEDY TRIAL

Systemic Criminal Justice Problems Lead to Dismissals for Defendants

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**T**he United States has arguably the best criminal justice system in the world. This is evidenced by the fact that developing countries often model theirs after ours and seek our assistance in setting up theirs. In our system, defendants have many rights, the most famous being the right to remain silent, the right to an attorney, and the right to trial. More specifically, they have the right to a speedy trial under both the United States and California Constitutions.

Unfortunately, however, nothing is perfect and our criminal justice system is no exception. In California, we have many systemic problems, among them too many cases, too few judges, too few appointed attorneys, too few courtrooms, and cases simply taking too long to conclude. Even more troublesome, as recent California Supreme Court opinions have shown, is that when these problems interfere with a defendant's right to a speedy trial, a criminal case may be dismissed not based on its merits, but for logistical reasons.

## DISMISSAL DUE TO TOO FEW JUDGES AND COURTROOMS

In *People v. Ingram*, the California Supreme Court recently held that a criminal case may be dismissed if there are too few judges and courtrooms to give a defendant a speedy trial. (Oct. 25, 2010) 50 Cal.4th 1131, 1138. Under the speedy trial statute in California, a defendant charged with a felony must essentially be brought to trial within sixty days of arraignment unless he or she generally waives that requirement or consents to a trial date beyond that time. Pen. Code, § 1382, subd. (a)(2). If a defendant is not brought to trial within the statutory period, a court must dismiss the case unless the court finds good cause to the contrary.<sup>1</sup> *Ibid.*

In *Ingram*, the defendant was charged with first-degree burglary in Riverside Superior Court. *Supra*, 50 Cal.4th 1131, 1139. On the last day for trial within the statutory period, the case could not be brought to trial. *Id.* at 1140–41. The superior court found that there was no available criminal judge or courtroom for trial. *Ibid.* It also found that the unavailability did not constitute good cause for a continuance and dismissed the case as well as seventeen other similarly situated criminal cases. *Id.* at 1138.

On appeal, the California Supreme Court affirmed. *Supra*, 50 Cal.4th 1131, 1138. It held that “when the *unavailability of a judge or courtroom* is fairly attributable to the *fault or neglect of the state*, such unavailability does not constitute good cause within the meaning of 1382.” *Id.* at 1163 (emphasis added). It concluded that the superior court properly found that the unavailability was the fault of the legislature:

[T]he congested criminal caseload represented a chronic condition rather than an exceptional circumstance, and . . . *the lack of available courtrooms and judges was attributable to the Legislature’s failure to provide a number of judges and courtrooms sufficient to meet the rapidly growing population . . .* *Id.* at 1164 (emphasis added).

The California Supreme Court further held that a superior court is not required to preempt a civil matter to avoid dismissal of a criminal case under the speedy trial statute. *Id.* at 1158. It concluded that when a superior court is chronically overwhelmed with criminal cases but is already devoting a proportionate amount of resources to them, the court may decline to reassign a criminal trial to an otherwise busy civil department. *Ibid.* It explained that requiring reassignment could have the effect of compelling a superior court to devote all of its resources to criminal cases thereby abandoning its responsibility to civil cases. *Id.* at 1161.

## DISMISSAL DUE TO REMOTENESS OF COURTROOM

In *People v. Hajjaj*, the California Supreme Court recently held that a criminal case may be dismissed if the courtroom is too far away for a defendant to have a speedy trial. (Nov. 4, 2010) 50 Cal.4th 1184, 1190.

In *Hajjaj*, the defendant was charged with a felony drug offense in Riverside Superior Court. *Supra*, 50 Cal.4th 1184, 1190. On the last day for trial within the statutory period, the case could not be brought to trial. *Id.* at 1191–92. Even though a judge and courtroom opened up in a remote courthouse, the superior court found that there was no available judge or courtroom for trial. *Ibid.* The court also found that the distance to the courthouse did not constitute good cause for a continuance and dismissed the case. *Id.* at 1192–93.

On appeal, the California Supreme Court agreed. *Supra*, 50 Cal.4th 1184, 1196–1204. It held that a “courtroom that cannot be reached by the parties prior to the close of business is for practical and legal purposes unavailable for bringing the accused to trial.” *Id.* at 1197. It explained that availability for trial includes “the presence of the parties and their counsel” in the courtroom within the statutory period. *Id.* at 1196. The California Supreme Court further held that the remoteness of a courtroom does not constitute good cause “especially when the need to resort to a distant court is caused by chronic court congestion.” *Id.* at 1202. It found that the chronic congestion was again the fault of the state:

It is the state's obligation to resolve the routine logistical difficulties it faces in bringing defendants to trial in a timely manner. . . . In the present case, had the state committed sufficient resources to criminal trials in Riverside County, it would have provided a courtroom in which defendant *actually* could be brought to trial within the statutory period . . . *Id.* at 1203 (emphasis in original).

#### DISMISSAL DUE TO TOO FEW APPOINTED ATTORNEYS

In *People v. Johnson*, the California Supreme Court held that a criminal case may be dismissed if there are too few appointed attorneys to give a defendant a speedy trial. (1980) 26 Cal.3d 557, 571-73. *Johnson* is a long-standing case but is discussed here because it deals with a systemic criminal justice problem and is frequently cited, including in the previously discussed recent cases.

In *Johnson*, the defendant was charged with robbery in Los Angeles Superior Court. *Supra*, 26 Cal.3d 557, 561. The defendant was not brought to trial within sixty days of arraignment. *Ibid.* Over defendant's objection, the court repeatedly continued the case at the request and to accommodate scheduling conflicts of the public defender. *Id.* at 563-66. The defendant unsuccessfully sought to dismiss his case for speedy trial violation. *Ibid.* The defendant's trial started on the 144th day, and he was convicted. *Ibid.*

On appeal, the California Supreme Court found that there had been a speedy trial violation. *Supra*, 26 Cal.3d 557, 566-69. It held that an appointed attorney cannot waive a defendant's speedy trial right, over the defendant's objection, to accommodate the attorney's scheduling conflict caused by another client:<sup>2</sup>

[W]hen a client expressly objects to waiver of his right to a speedy trial under section 1382, counsel may not waive that right to resolve a calendar conflict when counsel acts not for the benefit of the client before the court but to accommodate counsel's other clients.  
*Id.* at 561-62.

It explained that an attorney "owes undivided loyalty to each client . . . he does not enjoy the prerogative of weighing the rights of one client against those of another" or waiving those of one in favor of the other. *Id.* at 568 (citing ABA Code of Prof. Responsibility, E.C. 5-1). The California Supreme Court also held that when a defendant is incarcerated, the fact that his appointed attorney is repeatedly unavailable due to recurring scheduling conflicts with other clients is insufficient to constitute good cause:<sup>3</sup>

[A]t least in the case of an incarcerated defendant, the asserted inability of the public defender to try such a defendant's case within the statutory period because of conflicting obligations to other clients does not constitute good cause to avoid dismissal of the charges.  
*Id.* at 562.

The court found that the chronic scheduling conflicts were the fault of the state:

The [speedy trial] right may also be denied by *failure to provide enough public defenders or appointed counsel*, so that an indigent must choose between the right to a speedy trial and the right to representation by competent counsel. "(U)nreasonable delay in run-of-the-mill criminal cases cannot be justified by simply asserting that the *public resources provided by the State's criminal-justice system* are limited and that each case must await its turn."  
*Id.* at 571 (quoting *Barker v. Wingo* (1972) 407 U.S. 514, 538 (White, J., conc.)) (emphasis added).

It explained that the state has a duty to provide an indigent defendant with "counsel who can bring the case to trial within the statutory limits." *Id.* at 580. Nevertheless, the court affirmed the conviction. *Ibid.* It reiterated "that a defendant seeking postconviction review of denial of a speedy trial must prove prejudice flowing from the delay of trial" and found that the defendant had failed to prove prejudice. *Id.* at 562.

## SIGNIFICANCE

These California Supreme Court cases signify that the problems of our criminal justice system are not merely superficial inconveniences, but rather that the problems detract from the efficacy of the system itself. More importantly, the cases signify that the state legislature should increase funding for more courtrooms, judges, and appointed attorneys to avoid dismissals based on logistics rather than case merit.

lutely necessary for his attorney to prepare. The cases conclude that a public defender or other appointed attorney should not waive time or continue a trial on behalf of a defendant merely because the attorney has a conflicting trial or other court appearance. Lastly, the cases show that if a defendant moves to dismiss due to a speedy trial violation in superior court and that court denies the motion, the defendant should seek pretrial appellate intervention.

## THESE CALIFORNIA SUPREME COURT CASES SIGNIFY THAT THE PROBLEMS OF OUR CRIMINAL JUSTICE SYSTEM ARE NOT MERELY SUPERFICIAL INCONVENIENCES, BUT RATHER THAT THE PROBLEMS DETRACT FROM THE EFFICACY OF THE SYSTEM ITSELF.

The cases also suggest strategies for a defendant and his attorney to increase the chances of dismissal. The cases suggest that a defendant should not waive time or continue his trial past sixty days unless extra time is abso-

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### Notes

1. Upon dismissal, a felony case may be refiled, but only once. Pen. Code, § 1387, subd. (a).
2. *People v. Lomax* is distinguishable. (July 1, 2010) 49 Cal.4th 530, 556. In *Lomax*, the California Supreme Court recently held that even over a defendant's objection, a trial may be continued for his attorney to prepare. *Ibid.*

3. *People v. Sutton* is distinguishable. (April 5, 2010) 48 Cal.4th 533, 551–62. In *Sutton*, the California Supreme Court recently held that there may be good cause to continue a trial when a defense attorney is briefly and unexpectedly in trial on another case. *Ibid.*