

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2023-KK-00637

VS.

JOHN HONORE, ET AL.

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Supervisory Writ, Parish of Orleans Criminal, Criminal District Court Number(s) 554-135, Court of Appeal, Fourth Circuit, Number(s) 2023-K-0239;

June 07, 2023

Writ application granted. See per curiam.

JTG

JLW

JDH

SJC

JBM

Crichton, J., additionally concurs and assigns reasons.

Crain, J., concurs and assigns reasons.

Griffin, J., concurs and assigns reasons.

Supreme Court of Louisiana

June 07, 2023



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 23-KK-0637

STATE OF LOUISIANA

v.

JOHN HONORE, ET AL

**ON SUPERVISORY WRITS TO THE CRIMINAL
DISTRICT COURT, PARISH OF ORLEANS**

PER CURIAM:

Writ granted. “Cases shall be set for trial by the court on motion of the state, and may be set for trial on motion of the defendant.” La.C.Cr.P. art. 702. While a prosecutor’s authority includes determining “whom, when, and how he shall prosecute[,]” as set forth in La.C.Cr.P. art. 61, that authority does not extend to controlling when the trial court sets the case for trial, once the motion to do so is made, pursuant to Art. 702. Instead, the trial court exercises its discretion in selecting the trial date.

“Where there is an exercise of discretion, there is a potential for abuse of that discretion, and that abuse must be subject to appellate review.” *State v. Young*, 96-0195, p. 1 (La. 10/15/96), 680 So.2d 1171, 1175 (Calogero, C.J., dissenting). *See also State v. Watson*, 2022-00719, p. 2 (La. 5/1/22), 338 So.3d 1169, 1170 (Crain, J., dissenting) (“Thus, once the charge is filed and the case is assigned, the trial judge controls the proceedings, subject to review for an abuse of discretion.”). Here, after careful review of the transcript of the hearing and the trial court’s per curiam, we find the trial court abused its discretion in selecting a new trial date approximately 11 months away after this court remanded with instructions to set “a

new trial date that will afford the defendants additional time to respond to the State's DNA and fingerprint evidence." *State v. Honore, et al.*, 2023-00461 (La. 4/4/23), ___ So.3d ___ (per curiam), available at 2023 WL 2911025.

A court "has the duty to require that criminal proceedings shall be conducted with dignity and in an orderly and expeditious manner and to so control the proceedings that justice is done." La.C.Cr.P. art. 17. Additionally, "the interests of the victim's family in closure and of the defendants' interests in a speedy trial must be weighed and balanced." *State v. Honore, et al.*, 2023-00461, p. 2, 2023 WL 2911025 *1 (Weimer, C.J., concurring). A trial date should be selected "that assures that both the State and the defendants are adequately prepared to proceed with trial [and that] strikes the appropriate balance and averts potential errors which might, at a later date, require a reversal and retrial. The ultimate goal of a trial is a just result." *Ibid.* Here, the record does not reflect that a careful weighing and balancing of those concerns with that goal in mind occurred. Instead, we find the selection of the March 2024 trial date is an abuse of discretion.

Therefore, we grant the State's application and vacate the trial court's ruling that set trial for March 18, 2024. After carefully weighing and balancing the considerations above, and after evaluating the competing scheduling considerations listed in the trial court's per curiam, we remand to the trial court with instructions to select a trial date in the year 2023.

REVERSED AND REMANDED