

IN THE SUPREME COURT OF IOWA

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STATE OF IOWA,  
Plaintiff-Appellee,

v.

ERIC LAMONT HARRIS,  
Defendant-Appellant.

JOHNSON COUNTY NO.  
FECR137573

SUPREME COURT  
NO. 23-1285

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APPEAL FROM THE IOWA DISTRICT COURT  
FOR JOHNSON COUNTY  
THE HONORABLE BRANDON SCHROCK, ASSOCIATE JUDGE

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APPELLANT'S BRIEF AND ARGUMENT

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## **STATEMENT OF THE ISSUE PRESENTED FOR REVIEW**

**The district court erred in denying Harris' motion to dismiss, because the State filed the trial information 46 days after taking him into custody and did not establish waiver or good cause for the delay.**

## **ROUTING STATEMENT**

This case should be transferred to the Court of Appeals because the issue raised involve the application of existing legal principles. Iowa Rs. App. P. 6.903(2)(a)(4) (2024) and 6.1101(3)(a) (2024).

### **Nature of the Case**

The Defendant-Appellant, Eric Harris, seeks review of the denial of his motion to dismiss. Harris filed a motion to dismiss for violation of the 45-day speedy-indictment rule. (D0013 Motion to Dismiss (5/15/2023)). The district court denied that motion. (D0032 Order Denying Motion to Dismiss (7/14/2023)). Harris requested discretionary review, which was granted by the Iowa Supreme Court. (D0038 Application for Discretionary Review (8/15/2023); D0039 Order Granting Discretionary Review (9/12/2023)).

## **Statement of the Facts**

Police took Harris into custody at 11:58 p.m. on March 25, 2023. (Exhibit A Arrest Video with Timestamp<sup>1</sup> at 23:58:17–23:58:40). Initial appearance occurred on March 26. (D0005 Initial Appearance Order p. 1 (3/27/2023)). The State filed the trial information on May 10. (D0010 Trial Information (5/10/2023)).

## **ARGUMENT**

**The district court erred in denying Harris’ motion to dismiss, because the State filed the trial information 46 days after taking him into custody and did not establish waiver or good cause for the delay.**

### **Preservation of Error**

Harris filed a motion to dismiss, arguing the trial information was filed outside the 45-day speedy-indictment deadline. (D0013). The State responded, and both parties filed supplemental written arguments. (D0016 Resistance to Motion to Dismiss (5/31/2023));

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<sup>1</sup> Exhibit A contains two videos of Harris’ arrest, one titled “2023-06-01 12-51-53” which features an in-video timestamp and one titled “DaleDellimore\_202303252355\_WFC1126891\_58560487” which does not. References in this brief are to the former video. The State did not dispute the accuracy of the timestamp.

D0021 Supplement to Motion to Dismiss (6/8/2023); D0022 Response to Supplement to Motion to Dismiss (6/12/2023); D0029 Second Response to Supplement to Motion to Dismiss (7/11/2023)). Following hearing on the matter, the district court denied the motion. (D0032). Error was preserved. See State v. Williams, 895 N.W.2d 856, 858 (Iowa 2017).

### **Standard of Review**

Speedy-indictment issues are reviewed for errors at law. Id. at 860 (citation omitted). The district court's factual findings are binding if supported by substantial evidence. Id. (citation omitted).

### **Discussion**

The district court determined the speedy-indictment clock runs from the date of initial appearance, not the date of physical custody, and therefore that the State timely filed the trial information. (D0032 pp. 3–4). That was incorrect.

Iowa Rule of Criminal Procedure 2.33(2)(a), as it read at the time of Harris' arrest,<sup>2</sup> provided:

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<sup>2</sup> Rule 2.33(2)(a) was amended effective July 1, 2023. See Iowa R. Crim. P. 2.33(2)(a) (2023).

When an adult is arrested for the commission of a public offense . . . and an indictment is not found against the defendant within 45 days, the court must order the prosecution to be dismissed, unless good cause to the contrary is shown or the defendant waives the defendant's right thereto.

Iowa R. Crim. P. 2.33(2)(a) (2022). Because criminal offenses may be charged by trial information rather than indictment, the two terms are generally synonymous. Iowa Rs. Crim. P. 2.5(1)(a) (2022); 2.5(5) (2022). Thus, rule 2.33(2)(a) mandates dismissal if a trial information is not filed within 45 days of the date of arrest unless the State establishes good cause for the delay or waiver by the defendant.

In State v. Williams, the Iowa Supreme Court held the speedy-indictment rule is triggered if arrest is completed by taking the arrestee before a magistrate for an initial appearance. Williams, 895 N.W.2d at 867. However, the Court was clear that when an arrest is completed by initial appearance, the clock runs from the date of physical custody, not the date of initial appearance. Id. (“The rule is triggered from the time a person is taken into custody,



but only when the arrest is completed by taking the person before a magistrate for an initial appearance.”).

Despite the Court’s statement, there was confusion about Williams’ holding for some time. In State v. Khan, the State claimed Williams held the speedy-indictment timeline runs from the date of initial appearance. State v. Khan, No. 20-0869, 2021 WL 3661411, at \*1 (Iowa Ct. App. Aug. 18, 2021) (unpublished table decision). Two of the three panel judges rejected that argument, holding the “clear” language of Williams requires that, in cases where the speedy-indictment clock is triggered, it runs from the date of physical custody. Id. at \*2. One judge dissented, agreeing with the State that the clock runs from initial appearance, not custody. Id. at \*2–4 (Greer, J., dissenting).

In State v. Watson, the Iowa Supreme Court unanimously endorsed the view of the Khan majority. State v. Watson, 970 N.W.2d 302, 308, n. 4 (Iowa 2022) (“Judges on the court of appeals have disagreed on whether under *Williams* the forty-five-day time clock runs from the date of the initial appearance or the date of

arrest. Compare *State v. Khan*, No. 20-0869, 2021 WL 3661411, at \*2 (Iowa Ct. App. Aug. 18, 2021) (date of arrest), *with id.* at \*3–4 (Greer, J., dissenting) (date of initial appearance). We take this opportunity to clear up the confusion.”). While Watson dealt with a citation in lieu of arrest rather than a custodial arrest, the Court noted the differing views of Williams and stated “*Williams* does not run the time from initial appearance . . . .” Id. at 307. The Court made this point even more clear by saying “the State and district court misread [Williams] holding as measuring the forty-five-day period from the date of the initial appearance rather than the date of the arrest, as we actually held in that case.” Id. at 308. The Court called the State’s belief to the contrary a “misinterpretation.” Id.

The district court here applied the same misinterpretation of Williams which was rejected in Khan and Watson. The court correctly identified the timeline: Harris was in custody on March 25, initial appearance occurred on March 26, and the trial information

was filed on May 10.<sup>3</sup> (D0032 pp. 1–2). The court acknowledged that if the clock runs from the date of custody, the trial information was filed after the speedy-indictment deadline. (D0032 p. 2). But the court believed the clock ran from initial appearance. (D0032 pp. 3–4).

That conclusion is contrary to the plain language of Williams, the meaning of which has been reiterated in Khan and Watson. Police took Harris into custody on March 25, 2023. (Exhibit A Arrest Video with Timestamp at 23:58:17–23:58:40). His arrest was completed by initial appearance. (D0005). The State filed the trial information 46 days after police took Harris into custody. (D0010). Rule 2.33(2)(a) mandated dismissal unless the State carried its burden of establishing good cause for the delay or waiver by Harris. Iowa R. Crim. P. 2.33(2)(a) (2022); Williams, 895 N.W.2d

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<sup>3</sup> The State initially claimed Harris was taken into custody on March 26, but gradually admitted it actually occurred late on March 25. See (D0016 p. 1 ¶ 5) (“Defendant’s physical arrest [occurred] in the early morning hours of March 26, 2023 . . . .”); (D0022 p. 2) (“Defendant’s arrest may have occurred a few minutes before midnight on May [sic] 26 . . . .”); (D0045 6/1/2023 Hearing Tr. p. 11 L. 16–19 (10/2/2023)) (prosecutor states Harris’ physical custody “clearly” “began” on March 25)).

at 867. Harris did not waive his right to speedy indictment, and the State made no attempt to establish good cause, relying instead on its misinterpretation of Williams. The district court erred in denying Harris' motion to dismiss.

### **Conclusion**

The district court erred in denying Harris' motion to dismiss, because the State filed the trial information 46 days after he was taken into physical custody and failed to establish good cause existed for the delay. Harris' case should be remanded to the district court for dismissal.

### **NONORAL SUBMISSION**

Counsel does not request to be heard in oral argument.

**CERTIFICATE OF COMPLIANCE WITH TYPEFACE  
REQUIREMENTS AND TYPE-VOLUME LIMITATION  
FOR BRIEFS**

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(e) (2024), 6.903(1)(g)(1) (2024), and 6.903(1)(i)(1) (2024) because:

[X] this brief has been prepared in a proportionally spaced typeface Bookman Old Style, font 14 point and contains 1,308 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1) (2024).



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