IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA, )
Plaintiff-Appellee, )
vs. )
TROY THOMAS, )
Defendant-Appellant. )

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CLERK SUPREME COURT

Filed September 29, 1981

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Appeal from Story District Court - M. D. Seiser, Judge.

Defendant challenges, by way of discretionary review, the trial court's refusal to dismiss burglary charges against him on the ground that he was denied a speedy indictment under Iowa R. Crim. P. 27(2)(a). REVERSED.

William J. Pattinson of Hegland, Newbrough, Johnston, Brewer & Maddux, Ames, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Michael Jordan, Assistant Attorney General, for plaintiff-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Defendant, Troy Thomas, challenges, by way of discretionary review pursuant to section 814.6(2)(3), The Code 1979, the trial court's refusal to dismiss burglary charges against him on the ground that he was denied a speedy indictment under Iowa R. Crim. P. 27(2)(a). Defendant claims the State failed to establish good cause to justify the delay. We reverse the trial court and remand with instructions that the information be dismissed.

On March 17, 1980, the defendant was arrested and charged with burglary in the second degree in violation of section 713.3, The Code 1979, and possession of stolen property in violation of section 714.1(4), The Code 1979. The county attorney's information, accusing the defendant, was filed May 2, 1980, forty-six days after the defendant was arrested. On May 12, the defendant filed a motion to dismiss the charges against him on the grounds the information was not filed within forty-five days of arrest as required by Iowa R. Crim. P. 27(2)(a). At the hearing on the motion on June 9, the county attorney attempted to establish good cause for the delay. He indicated the delay was due to the fact he miscalculated the time limit when entering the filing date on his calendar. The trial court held the "honest mistake" of the county attorney constituted good cause for the one-day delay and rejected the defendant's motion.

This case presents facts identical to the facts in State v. Hunziker, No. 65177, ___N.W.2d___(Iowa App. 1981), filed August 25, 1981. Our sentiment on the issue raised by Hunziker has not changed since the filing of that opinion.

This case involves precisely the sort of systemic administrative breakdown condemned in State v. Sassman, 226 N.W.2d 808, 809 (Iowa 1975). The county attorney miscalculated the deadline for filing the indictment. The statute establishes an arbitrary time limit. Such time limit was established to further the public policy as stated in the rule, which is that criminal prosecutions should be concluded at the earliest possible time. Iowa R. Crim. P. 27(2).

We hold that the county attorney's miscalculation was not good cause for the failure to timely file the information. Iowa R. Crim. P. 27(2)(a) thus compels this court to order dismissal of the prosecution. The fact that the delay was short, that the defendant was not prejudiced, and that the defendant did not demand speedy indictment will not turn an insufficient reason for delay into a sufficient one. The judgment is therefore reversed, with instructions that the information be dismissed. See State v. Sassman, supra at 809.

REVERSED.