

IN THE
INDIANA SUPREME COURT

No. 19A-CR-49

STANLEY WATSON,
Appellant-Defendant,

v.

STATE OF INDIANA,
Appellee-Plaintiff.

Appeal from the
Ripley Circuit Court,

No. 69C01-10-CF-52,

The Honorable James D. Humphrey,
Special Judge.

STATE'S REPLY TO RESPONSE TO PETITION TO TRANSFER

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Criminal Rule 4(C) does not apply to retrials of habitual offender enhancements following post-conviction relief; instead, the appropriate test is the constitutional speedy trial test.¹ The Court of Appeals application of Criminal Rule 4(C) to a procedural posture not contemplated by the rule creates an unworkable standard for trial courts. *Watson v. State*, 19A-CR-49, slip op. 9 (Ind. Ct. App. Oct. 31, 2019). This quagmire is exacerbated by the fact that the Court of Appeals’ opinion contravenes the precedent of this Court and the Court of Appeals, and it has no support in the text of the rule itself.

Watson’s attempts to distinguish controlling precedent are unpersuasive and would further deepen the uncertainty caused by the Court of Appeals’ opinion. Watson’s arguments suggest that Criminal Rule 4(C) should have a timeline that resets on a case-by-case basis. He distinguishes this Court’s precedent in the *Brumfield* and *Nelson* cases by suggesting that those cases involved situations where the triggering events of Criminal Rule 4—*i.e.*, arrest or the filing of charges—were unlikely to reoccur. *Brumfield v. State*, 426 N.E.2d 692 (Ind. 1981); *Nelson v. State*, 542 N.E.2d 1336 (Ind. 1989); (Response to Trans. Pet. 8, 10 n.2). But that reasoning forgets habitual offender retrials can be ordered for reasons having

¹ Watson’s concerns about “languish[ing] in jail at the mercy of the judge or prosecutor” are unfounded because in all circumstances the constitutional speedy trial analysis applies. (Response to Trans. Pet. 12); *see also Barker v. Wingo*, 407 U.S. 514, 530-31 (1972); *Crawford v. State*, 669 N.E.2d 141, 145 (Ind. 1996). In this particular case, the constitutional test would be resolved in the State’s favor. (Appellee’s Br. 16-27).

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nothing to do with the original charging information. A post-conviction court could order retrials of habitual offender charges following findings of ineffective assistance of counsel or juror misconduct, for example, which would involve no need to file new charges or amend the existing charges. Criminal Rule 4(C) contains no language that its deadline should only be reset in certain kinds of retrials with unique fact scenarios. Criminal Rule 4(C) is a rule of general applicability intended to ensure speedy initial trials occur and is not intended to be a mechanism to avoid trial in individual cases. *See Brown v. State*, 725 N.E.2d 823, 825 (Ind. 2000).

The Court of Appeals and Watson's application of *Poore v. State*, 685 N.E.2d 35, 41 (Ind. 1997), to retrials is inconsistent with this Court's precedent since *Poore*. In *James v. State*, 716 N.E.2d 935, 938-39 (Ind. 1999), this Court addressed the application of Criminal Rule 4(B) and 4(C) on retrials, and this Court reaffirmed its holding in *Poore* as it applied to Criminal Rule 4(B) and its holding in *Brumfield* as it applied to Criminal Rule 4(C). Notably, this Court did not apply *Poore* to Criminal Rule 4(C), but it did recognize *Brumfield* as the controlling precedent.

Watson is also mistaken about the record in this case. He suggests that the State filed new charges following a successful petition for post-conviction relief, but that mischaracterizes the procedural posture of the case. With leave from the trial court, the State filed an amendment to its habitual offender charge. (Response to Trans. Pet. 5, 11; App. Vol. II 97-98). This distinction matters because the Court of Appeals opinion draws no line between which amendments to the charging information reset the Criminal Rule 4(C) clock and which do not. Moreover, the text

of the rule itself says nothing about resetting the clock for amendments. Trial courts are left in the dark by the Court of Appeals' opinion.

Watson's suggestion that the Department of Correction's classification of defendants matters for applicability of Criminal Rule 4(C) stretches the rule and this Court's precedent too far. *Poore*, 685 N.E.2d at 40; (Response to Trans. Pet. 9-11). Criminal Rule 4(C) looks only to two events to determine when a defendant should be discharged: the filing of initial charges and the date of the initial arrest. There is nothing in Criminal Rule 4(C) to suggest that application of the rule depends on what happens after entry of a conviction. Moreover, *Poore* does not support Watson's position. In *Poore*, this Court noted that Poore had claimed, "without documenting the point," that he was "possibly in jail only because of the pending habitual offender proceeding." *Poore*, 685 N.E.2d at 40. As Watson points out, even without the habitual offender enhancement, he will be serving the sentence for his underlying felony for another seven years.² (Response to Trans. Pet. 9).

The Court of Appeals' opinion fails to promote justice because it will result in arbitrary enforcement of Criminal Rule 4(C). Some amended charges will reset the clock and some will not, but because Criminal Rule 4(C) and the Court of Appeals'

² Criminal Rule 4(B), unlike Rule 4(C), creates a deadline for trial at the defendant's discretion. It makes sense for Criminal Rule 4(B) to contemplate sentencing considerations because sentencing classification might be relevant to a defendant's decision to accelerate the date of trial. Criminal Rule 4(C)'s deadline is static and has a uniform application regardless of sentencing outcomes.

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opinion provide no guidance about where to draw the dividing line, there will be confusion about where Criminal Rule 4(C) applies. That disarray is entirely unnecessary because resetting of the Criminal Rule 4(C) clock for any sort of amended charges is not contemplated by the rule. This Court should grant transfer to avoid the quagmire invited by the Court of Appeals' new application of Criminal Rule 4(C).

CONCLUSION

For the foregoing reasons, the State respectfully requests this Court to grant transfer and affirm the trial court.

Respectfully submitted,
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CERTIFICATE OF WORD COUNT

I verify that this Reply to Response to Petition to Transfer contains no more than 1,000 words. The word count was conducted by selecting all portions of the document not excluded by Indiana Appellate Rule 44(C) and selecting Review/Word Count in Microsoft Word, the word-processing program used to prepare this petition.

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CERTIFICATE OF SERVICE

I certify that on January 16, 2020, the foregoing document was electronically filed using the Indiana E-filing System (“IEFS”). I also certify that on January 16, 2020, the foregoing was served upon opposing counsel, via IEFS, addressed as follows:

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