DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

STATE OF FLORIDA,

Appellant,

v.

BOBBY ROCELL MUHAMMAD,

Appellee.

No. 2D2025-0756

November 6, 2026

Appeal from the Circuit Court for Hillsborough County; Barbara Twine-Thomas, Judge.

James Uthmeier, Attorney General, Tallahassee, and William A. Leto, Assistant Attorney General, Tampa, for Appellant.

Daniel P. Fischetti, Law Office of Daniel Fischetti, P.A., for Appellee.

ATKINSON, Judge.

The State appeals from an order discharging appellee, Bobby Rocell Muhammad, from a charge of trafficking in hydrocodone for failure to bring him to trial within the time provided by the speedy trial rule, Florida Rule of Criminal Procedure 3.191 (2024). We reverse.

Background

On April 16, 2024, a detective conducted a traffic stop of Mr. Muhammad's vehicle for speeding and failing to stay in his lane. When the detective approached the vehicle, he observed a two-liter Sprite bottle

and a Styrofoam cup, each containing a purple liquid, in plain view in the center console. He believed that the purple liquid was hydrocodone, and Mr. Muhammad told him that the liquid was "codeine," but the detective did not have access to a field test which could independently verify whether the purple liquid contained hydrocodone. Mr. Muhammad consented to a search of his vehicle, and officers found a black sock located under the hood, which contained three bags of substances that tested presumptively positive for fentanyl and cocaine (the "other drugs"). Mr. Muhammad was arrested the same day for his possession of the other drugs, and the State impounded the purple liquid and sent it to FDLE for testing two days later.

Initially, the State only prepared one criminal report affidavit on April 16, 2024, charging Mr. Muhammad with possessing and trafficking the other drugs in case number 24-CF-005989. On May 7, 2024, however, the State issued Mr. Muhammad a letter of release informing him that it would not file charges in that case. FDLE completed an analysis of the purple liquid on November 26, 2024, which indicated that it contained codeine. As a result, the State prepared a second criminal report affidavit on January 3, 2025, charging Mr. Muhammad with trafficking in hydrocodone (300 grams or more, but less than 30 kilograms) pursuant to section 893.135(1)(c)2.d, Florida Statutes (2024), in case number 25-CF-000158. He was arrested on January 8, 2025, the same day that the State filed its information pertaining to trafficking in hydrocodone.

Mr. Muhammad filed a Motion for Discharge under rule 3.191, arguing that the State violated his speedy trial rights due to the lapse of time between his initial arrest on April 16, 2024, and his formal charge on January 8, 2025. The trial court conducted an evidentiary hearing

and granted Mr. Muhammad's motion, ruling that his possession of hydrocodone "stem[med] from the same factual nexus—[his] possession of controlled substances in his vehicle—establishing it as part of the same criminal episode" for speedy trial purposes. The trial court further found that the State's dismissal of the other drug charges did not toll the speedy trial period and that the State's delay in charging Mr. Muhammad for his hydrocodone possession was not reasonable. The State appeals, arguing that Mr. Muhammad's possession of hydrocodone was part of a different criminal episode than his possession of the other drugs.

Discussion

A trial court's speedy trial ruling is subject to a mixed standard of review: the court's factual findings are reviewed "under the competent substantial evidence standard" while legal conclusions are reviewed de novo. *See Crockett v. State*, 206 So. 3d 742, 745 (Fla. 1st DCA 2016) (quoting and citing *Niles v. State*, 120 So. 3d 658, 663 (Fla. 1st DCA 2013)). A trial court's interpretation of rules and procedures, as well as the determination of whether a crime arose from the same criminal episode as a crime for which a defendant was previously arrested under rule 3.191, is a question of law subject to de novo review. *See State v. Baynham*, 72 So. 3d 796, 798–99 (Fla. 4th DCA 2011) (applying de novo review to the trial court's erroneous determination that the defendant's selling of crack cocaine arose from the same "criminal episode" as riding a bike without a light or giving a false name to a police officer).

Under rule 3.191(a), any person charged with a felony shall be brought to trial within 175 days of arrest. The speedy trial period begins when the defendant is taken into custody, which includes being "arrested as a result of the conduct or criminal episode that gave rise to the crime charged." *See* Fla. R. Crim. P. 3.191(a), (d). "Under certain limited

circumstances, . . . the right to a speedy trial can commence to run on uncharged crimes if the uncharged crimes are part of the same 'criminal episode' as the charged crimes." *Clevenger v. State*, 967 So. 2d 1039, 1041 (Fla. 5th DCA 2007) (quoting *State v. Hanna*, 858 So. 2d 1248, 1250 (Fla. 5th DCA 2003)); *see also State v. Kelly*, 407 So. 2d 257, 259 (Fla. 2d DCA 1981) ("We have previously held that for speedy trial purposes, even though the same conduct gives rise to separate offenses, both must be tried within the speedy trial time." (citing *Crain v. State*, 302 So. 2d 433, 434–35 (Fla. 2d DCA 1974), *receded from by State ex rel. Canup v. Langston*, 341 So. 2d 1069 (Fla. 2d DCA 1977))).

Mr. Muhammad's speedy trial period in case number 25-CF-000158 began at the time of his later arrest for trafficking in hydrocodone because his possession of hydrocodone arose from a criminal episode separate from his possession of the other drugs for which he was initially arrested. "Crimes are deemed to be part of the same criminal episode so as to trigger the running of the speedy trial period when they are based on the same conduct, even though the conduct may give rise to different consequences." *Clevenger*, 967 So. 2d at 1041 (first citing *Hanna*, 858 So. 2d at 1250; then citing *State v. Lynch*, 445 So. 2d 687, 689 (Fla. 2d DCA 1984); and then citing *Shearin v. State*, 755 So. 2d 800, 801–02 (Fla. 2d DCA 2000)); *see also Kelly*, 407 So. 2d at 259 ("[A] criminal episode requires that the same conduct or episode give rise to different consequences." (citing *State v. Stanley*, 399 So. 2d 371, 373 (Fla. 3d DCA 1981))). Notably, "[t]he definition of a criminal episode for speedy trial purposes involves a broader concept than the determination of what constitutes the same offense for double jeopardy purposes." *Kelly*, 407 So. 2d at 259 (first citing *Bryant v.*

Blount, 261 So. 2d 847, 850 (Fla. 1st DCA 1972); and then citing *State ex rel. Meyer v. Keough*, 325 So. 2d 75, 77 (Fla. 2d DCA 1976)).

To be discharged under rule 3.191, "the defendant must show more than the mere fact that the evidence leading to the subsequent charge was first discovered as a result of the original arrest and charge for the initial offense." *State v. Hoesley*, 427 So. 2d 1077, 1078 (Fla. 2d DCA 1983). "[E]ven when the temporal separation is not significant, when different crimes are involved, they are not deemed a part of the same criminal episode unless they are based on substantially the same *acts*." *Baynham*, 72 So. 3d at 798 (alteration in original) (emphasis added) (quoting *Hanna*, 858 So. 2d at 1250). To qualify as the same criminal episode, "[t]he conduct needs to be more than 'merely related'—it should be 'the same conduct.' " *Id.* (quoting *Walker v. State*, 390 So. 2d 411, 412 (Fla. 4th DCA 1980)); *see also, e.g.*, *Carter v. State*, 432 So. 2d 797, 798 (Fla. 2d DCA 1983) (concluding that "the time in which the state was allowed to prosecute [the charge of causing a death by the operation of a motor vehicle while intoxicated] began to run when the appellant [was in custody and] pled guilty to the crime of driving while his license was suspended or revoked" because "[t]he appellant's conduct, *i.e.,* driving the automobile, was the sole conduct which resulted in both criminal charges placed against him"); *Robinson v. Lasher,* 368 So. 2d 83, 83–84 (Fla. 4th DCA 1979) (holding that under rule 3.191, the defendant was entitled to discharge for a manslaughter offense because the State "arrested and charged [the defendant] with reckless driving . . . as a result of an accident in which a passenger in [the defendant's] automobile was killed" but filed an information "charging the [defendant] with manslaughter as a result of the same incident giving rise to the previous arrest . . . 196 days after his initial arrest").

Mr. Muhammad was in possession of hydrocodone at the same time he was in possession of the other drugs. Law enforcement happened to pull Mr. Muhammad over while he had an open container of what turned out to be hydrocodone in plain view, but that does not mean his possession of hydrocodone was part of the same criminal episode pertaining to the other drugs found concealed in a sock in a closed compartment of the vehicle. The fact that law enforcement discovered the contraband during a single traffic stop does not compel the conclusion that the offenses arose from the same criminal episode under these circumstances. "[T]he analysis of criminal episode for purposes of the speedy trial rule" "depends on the activities of the defendant, not the activities of the police investigating the defendant." *See Baynham*, 72 So. 3d at 799 (emphasis omitted) (quoting *Williams v. State*, 409 So. 2d 253, 255 (Fla. 4th DCA 1982) (Hurley, J., dissenting), *receded from by Dupree v. State*, 705 So. 2d 90 (Fla. 4th DCA 1998) (adopting the rationale of Judge Hurley's dissenting opinion in *Williams*)). Thus, two crimes do not arise from the same criminal episode merely because they were both detected by law enforcement officers at the time of the defendant's arrest for one or the other. *See id.* ("[T]he trial court misapplied the 'criminal episode' standard of Rule 3.191 by placing a great emphasis on the ongoing investigation of the police officers, rather than the actions of the appellee."). Rather, Mr. Muhammad was engaged in separate forms of criminal conduct that constituted distinct, concurrent criminal episodes for speedy trial purposes, and it is *his* actions—not the decisions or strategy of law enforcement—that determine whether separate offenses fall under the same criminal episode. *See id.*; *see also* Fla. R. Crim. P. 3.191(d) ("[A] person is taken into custody . . . when the person is

arrested as a result of the conduct or criminal episode that gave rise to the crime charged . . . .").

The State ably argues that even though all drugs were found at the same time, Mr. Muhammad's possession of hydrocodone was a separate criminal episode because it was stored in a different container than the other drugs, in a different compartment of the vehicle. Moreover, one controlled substance (hydrocodone) was in Mr. Muhammad's constructive possession, with all evidence indicating its use for his own personal consumption, while the other drugs were concealed where one would not look to find them, indicating the purpose of undetected transport to another location for later sale or use. The record does not indicate that Mr. Muhammad ever admitted to drinking the hydrocodone while driving—nor that he stated he was *not* doing so. However, the hydrocodone was discovered in a two-liter Sprite bottle and a Styrofoam cup within reach of Mr. Muhammad in a manner indicating its ready accessibility for consuming without needing to do more than reach for it (with an additional supply closed in another container that could be used to refill the cup). By contrast, the other drugs were concealed in a container not typically utilized to store objects (a sock) in a compartment of the automobile not typically utilized to secure personal possessions (under the hood), indicating they were hidden there for safekeeping and transportation. In other words, all evidence suggests that Mr. Muhammad had liquid hydrocodone with him in the passenger compartment for swilling and that he had fentanyl and cocaine drugs stashed under the hood for smuggling.

Under other circumstances, similar distinctions might be immaterial. In *Crain*, 302 So. 2d at 433–34, the defendant "was arrested . . . and charged with driving while under the influence of a prohibited

drug" and later charged with felony marijuana possession. The marijuana supporting the latter charge was the same marijuana referred to in the prior charge. *Id.* at 434. The trial court denied the defendant's motion to discharge, and on appeal, this court reversed, rejecting the State's "contention that the initial arrest for driving while under the influence . . . was not the taking into custody for the 'conduct or criminal episode' giving rise to" the possession charge. *Id.* But in this case, the substance readily available for imbibing—hydrocodone—was a different substance than the concealed drugs for which Mr. Muhammad was initially arrested and charged. Additionally, Mr. Muhammad was never charged with driving under the influence connected to allegedly drinking hydrocodone while driving, further distinguishing this case from *Crain*—to the extent *Crain* remains valid. *See Lynch*, 445 So. 2d at 690 (discussing *Crain* and concluding, "It seems clear that the separate crimes [driving an automobile while under the influence of a prohibited drug and possession of a felony amount of marijuana] were, at most, related, which, of course, is not enough to satisfy the currently accepted definition of 'criminal episode.' Thus, to the extent that *Crain* appears inconsistent with our holding today and with our decisions in *Carter*, *Kelly* and *Hoesley*, *Crain* yields"). The act of storing and transporting the cocaine and fentanyl was not the same act of placing the hydrocodone next to him at the ready; the hydrocodone's presence in the Styrofoam cup indicates that Mr. Muhammad had it available to drink from it while driving, constituting a separate criminal act from stowing the other drugs in a manner so as to conceal them for safekeeping or transport. *See, e.g.*, *Willis v. State*, 640 So. 2d 220, 221 (Fla. 2d DCA 1994) ("[W]e conclude that the two crimes [the defendant] committed were not part of a single criminal episode. The possession offense was not related to the

conduct of the robbery offense for which [the defendant] was arrested. The pipe containing cocaine was merely discovered incident to the arrest for robbery."); *Baynham*, 72 So. 3d at 799 ("The act of selling crack cocaine and the act of riding a bike without a light or the act of giving a false name to a police officer are separate acts, and . . . the initial criminal charges are based on separate conduct from the crack cocaine charge.").

Mr. Muhammad's conduct could reasonably be compared to that of a person becoming intoxicated by sipping from an open beer while driving, which is one episode encompassing multiple criminal acts, at the same time as possessing illegal drugs hidden away in a separate compartment of the vehicle for transporting, a separate criminal act comprising a separate criminal episode. The mere fact that both crimes involve illicit drugs in this case does not alter the logical conclusion that they are different acts comprising separate criminal episodes. *Cf. Hoesley*, 427 So. 2d at 1078 ("In the case at bar, there is no relation between the original arrest for DUI (alcohol) and the subsequent charge for possession of cocaine, except that the cocaine was discovered during an inventory search of appellee's car *after* his initial arrest and confinement in jail.").

By contrast, in *Kelly*, 407 So. 2d at 258, the defendant was arrested for trafficking a .38 caliber pistol and jewelry. Law enforcement was aware that the defendant had also trafficked a .45 caliber pistol as part of the *same* sale but did not immediately arrest the defendant for trafficking the .45 caliber pistol due to police policy. *Id.* Seven or eight months after being arrested for trafficking the .38 caliber pistol, the State charged the defendant with trafficking the .45 caliber pistol but soon after "entered a nolle prosequi to all of the charges." *Id.* The next month,

the State charged the defendant only with trafficking the .45 caliber pistol. *Id.* The trial court granted the defendant's motion for discharge under the speedy trial rule, concluding that the charge arose from the same criminal episode as the other offenses for which the defendant was initially arrested. *Id.* This court affirmed the trial court's ruling, reasoning that the trafficking of both pistols constituted a single criminal episode because they arose from the same sale. *Id.* at 259.

Mr. Muhammad's drug possession is dissimilar. While Mr. Muhammad possessed the multiple controlled substances on a single occasion, that does not necessarily mean such possession constituted the "same conduct" for the purpose of determining whether the speedy trial period commenced as to each substance. *See Clevenger*, 967 So. 2d at 1041 (explaining that "crimes can constitute separate criminal episodes for speedy trial purposes even though they happen at the same time"). In other words, even though there was no interruption between Mr. Muhammad's possession of hydrocodone and his possession of other drugs, that does not lead to the conclusion that possession of each constituted "substantially the same acts" under the circumstances of this case. *See Baynham*, 72 So. 3d at 798. There was no evidence that the hydrocodone and other drugs in Mr. Muhammad's car were part of a single sale, or transport in anticipation of a single sale. *Cf. Kelly*, 407 So. 2d at 258.

Mr. Muhammad's failure to provide any evidence that his possessory offenses were the product of the same conduct leaves him unable to demonstrate that his possession of hydrocodone constituted the same criminal episode as his possession of the other drugs. *See Hoesley*, 427 So. 2d at 1078 ("When a defendant, seeking discharge . . . , argues that the subsequent criminal charges arose out of an earlier

criminal episode, *he must show* a nexus between that subsequent charge and the conduct which led to the initial arrest" (emphasis added)). For example, had Mr. Muhammad credibly testified that he was not sipping on the hydrocodone and that he was instead transporting it along with the other drugs to a single drug deal where all of the substances would be sold together or to a single location such as a stash house where they would be hidden for later sale or distribution, Mr. Muhammad might have been able to meet his burden. *See, e.g.*, *Kelly*, 407 So. 2d at 259 ("[T]he conduct which gave rise to the arrest for trafficking in the .38 caliber pistol and the charge for trafficking in the .45 caliber pistol *were the same—the single sale of those two items* . . . ." (emphasis added)). Here, nothing in the record supports such a theory, even if one had been advanced by the defendant. Instead, the facts indicate that an illicit substance was found to be in Mr. Muhammad's constructive possession in a manner that would have allowed him to imbibe it immediately while driving, and a package containing other illicit substances was cached in a separate, enclosed compartment that could only have been accessed by Mr. Muhammad if he stopped and exited the vehicle. Thus, this court need not answer the question of whether the crimes could be considered as arising from the same criminal episode if Mr. Muhammad had been transporting all the controlled substances in his vehicle for one or more ultimate sales because the record provides no such evidence; instead, there is evidence of two different contrabands, the circumstances and location of which support a reasonable inference that Mr. Muhammad had different purposes for each of them. The trial court incorrectly determined that Mr. Muhammad was engaged in only one criminal episode.

It should be noted that whether the State had probable cause to arrest Mr. Muhammad for trafficking hydrocodone at the time he was arrested for possessing the other drugs is irrelevant.[1] The speedy trial period did not begin until Mr. Muhammad was taken into custody, and the State was not required to arrest Mr. Muhammad for all crimes it had probable cause to believe Mr. Muhammad had committed. *See State v. Beasley*, 392 So. 2d 980, 981–82 (Fla. 4th DCA 1981) ("[W]e do not see how arrest for one crime can require the State to bring charges on a totally separate crime of which the State may have probable cause. . . . To conclude in this case that the State had to bring all charges against [the] defendant of which it had probable cause would destroy the traditional notion of prosecutorial discretion."). Thus, the State's decision not to arrest Mr. Muhammad for trafficking in hydrocodone did not impermissibly circumvent Mr. Muhammad's speedy trial rights because that offense constituted a separate criminal episode. *Cf.* Fla. R. Crim. P. 3.191(*o*) ("The intent and effect of this rule shall not be avoided by the state . . . prosecuting new and different charges based on the same conduct or criminal episode, whether or not the pending charge is suspended, continued, or is the subject of entry of a nolle prosequi.").

Conclusion

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[1] To the extent either party argues that the speedy trial period begins when probable cause is acquired, that is incorrect. Florida courts have repeatedly rejected the notion that the speedy trial period begins when probable cause is established; instead, it begins when the person is taken into custody as a result of the conduct or criminal episode that gave rise to the crime charged. *See, e.g.*, *State v. Warren*, 168 So. 3d 337, 343 (Fla. 5th DCA 2015); *Giglio v. Kaplan*, 392 So. 2d 1004, 1005 (Fla. 4th DCA 1981); *State v. Beasley*, 392 So. 2d 980, 980–81 (Fla. 4th DCA 1981).

The speedy trial period for trafficking hydrocodone did not begin until January 8, 2025, when he was arrested for that offense, and the trial court erred by finding that crime was part of the same criminal episode as his possession of fentanyl and cocaine for which he was arrested on April 16, 2024. Because the trial court's conclusion that Mr. Muhammad's speedy trial rights were violated was in error, we reverse the order granting discharge.

Reversed and remanded.

BLACK and SMITH, JJ., Concur in result only.

Opinion subject to revision prior to official publication.