

Fifth Circuit Court of Appeal State of Louisiana

No. 25-K-591

STATE OF LOUISIANA

versus

DANIELLE ANTOINE

IN RE DANIELLE ANTOINE

APPLYING FOR SUPERVISORY WRIT FROM THE FIRST PARISH COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE JOHN J. LEE, JR., DIVISION "B", No. F2274023

TRUE COPY

January 14, 2026



LINDA TRAN
DEPUTY CLERK

Panel composed of Judges Marc E. Johnson,
Stephen J. Windhorst, and John J. Molaison, Jr.

WRIT DENIED

Relator, Danielle Antoine, seeks review of the First Parish Court's November 6, 2025 judgment denying her Motion to Quash. Relator is charged with committing a simple battery on June 18, 2024, in violation of La. R.S. 14:35. On July 18, 2025, the State filed a motion to continue the trial set three days later. On July 21, 2025, the district court denied the State's motion for a continuance; the State responded by filing a *nolle prosequi* on the record, then refiling the Bill of Information the next day.

Thereafter, Relator filed a Motion to Quash the Bill of Information. Citing *State of Louisiana v. Walter Johnson*, 330 So.3d 295 (La. 2021), Relator argued that she and her witness were ready to proceed, the State's possession of relevant evidence was timely, and the unavailability of the witness was pretext; the State was not ready to proceed, and it admitted as much. In its Objection to Relator's motion, the State explained that though it appeared ready to proceed, the victim in the case was unavailable on the date of trial;

previous attempts at serving the victim were unsuccessful. The State countered that Johnson does not support quashing the Bill – in that case “the State’s dismissal was a pretext to gain advantage rather than a legitimate response to the unavailability of a critical witness.” The State further argued sanity commission hearings suspended the prescription period of La. C.Cr.P. art. 578¹, and its actions were not a dilatory tactic. The district court held a hearing on the motion, took the matter under advisement, then ruled against Relator. Relator now argues the district court erred when it denied her motion to quash.

A court’s resolution of motions to quash in cases where the district attorney entered a *nolle prosequi* and later reinstituted charges should be decided on a case-by-case basis. *State v. Ordonez*, 14-186 (La. App. 5 Cir. 9/24/14), 151 So.3d 94, 98 (citing *State v. Love*, 00-3347 (La. 5/23/03), 847 So.2d 1198, 1209). The trial judge’s denial of a motion to quash should not be reversed in the absence of a clear abuse of the trial court’s discretion. *State v. Lommasson*, 11-536, p. 5 (La. App. 5 Cir. 11/29/11), 81 So.3d 796, 799, citing *Love* 847 So.2d at 1208.

“In those cases ‘where it is evident that the district attorney is flaunting his authority for reasons that show that he wants to favor the State at the expense of the defendant, such as putting the defendant at risk of losing witnesses, the trial court should grant a motion to quash and an appellate court can appropriately reverse a ruling denying a motion to quash in such a situation.’” *State v. Batiste*, 05-1571, p. 5 (La. 10/17/06), 939 So.2d 1245, 1249, citing *Love*, *supra*.

On the showing made, we cannot say that the trial court abused its discretion in denying Relator’s motion to quash. Although the State mistakenly calculated that it had two years to prosecute Relator (instead of one as La. R.S. 14:35 is a misdemeanor), the State did make several attempts to serve its witness, but she was unavailable. The State immediately warned the court and Relator after entering the *nolle prosequi* the charges would be reinstituted. Relator also did not show that her key witness, Dr. Richoux, would be unavailable in the future.

In addition, although the State ceded it was not prepared to proceed to trial on July 21, 2025, between November 11, 2024 and July 2025, the court granted Relator two continuances over the objection of the State; the court also continued the matter once during that time according to the minute entries included with the

¹In the instant case, Relator was charged with simple battery in violation of La. R.S. 14:35, which is a misdemeanor. La. C.Cr.P. art. 578(A)(3) requires that trial of a misdemeanor be commenced within one year from the date of institution of the prosecution, subject to suspensions and interruptions provided by law, if there is no interruption of the time limitation under article 579.

application. Further, the court observed the State's request for continuance was its first. Finally, the record reflects delays caused by the examination of whether Relator was insane at the time of the offense.

Accordingly, the writ is denied.

Gretna, Louisiana, this 14th day of January, 2026.

MEJ
SJW
JJM

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **01/14/2026** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-K-591

E-NOTIFIED

First Parish Court (Clerk)
Honorable John J. Lee, Jr. (DISTRICT JUDGE)
Mark D. Plaisance (Relator)

Barry S. Ranshi (Relator)

MAILED

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