

Court of Appeals, State of Michigan

ORDER

People of MI v Norlan Calhoun

Docket No. 348639

LC No. 19-000583-01-FC

Christopher M. Murray
Presiding Judge

Cynthia Diane Stephens

Anica Letica
Judges

The Court orders that the order of April 26, 2019 is VACATED only to the extent that it held the instant matter in abeyance.

Pursuant to MCR 7.205(E)(2), the trial court's April 23, 2019 order is REVERSED only to the extent that order precluded the prosecutor from endorsing certain witnesses. Pursuant to MCL 767.40a(4), a "prosecuting attorney may add or delete from the list of witnesses he or she intends to call at trial at any time upon leave of the court and for good cause shown" The prosecutor had a valid reason for failing to previously endorse Amanda Roth and Detective/Sergeant Dean Molnar, and the failure to endorse Sergeant Robert Wellman earlier appears inadvertent. Defendant had knowledge of the evidence that these three witnesses would provide well in advance of the anticipated trial date. While defendant generally asserted that the late endorsement of these witnesses would have left him without enough time to prepare to meet the evidence at trial, defendant did not suggest that trial be adjourned. The "extreme sanction" of "precluding relevant evidence is reserved[]" for "egregious case[s]" *People v Callon*, 256 Mich App 312, 328; 662 NW2d 501 (2003). This is not such a case. See *id.* at 325-329 (finding it appropriate to permit the endorsement of an expert witness during opening statements where the failure to previously endorse the witness appeared inadvertent, the witness was known to the defendant, no continuance was requested, and no unfair prejudice resulted to the defendant). As such, the trial court abused its discretion by refusing to allow the prosecutor to endorse these witnesses. The matter is REMANDED for further proceedings consistent with this order.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

MAY 15 2019

Date


Chief Clerk