



**IN THE COURT OF CRIMINAL APPEALS
OF TEXAS**

NO. PD-0845-10

JASON SHANE DAVIS, Appellant

v.

THE STATE OF TEXAS

**ON STATE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE FIFTH COURT OF APPEALS
DALLAS COUNTY**

JOHNSON, J., filed a concurring opinion.

CONCURRING OPINION

From the record, it appears that, four and one-half months after appellant arrived in Dallas County after extradition pursuant to IADA and with the IADA clock ticking, the state chose to reindict appellant and to request a continuance because of that reindictment. The trial court granted the state's request, thereby pushing the beginning of the trial well past the time limits of the IADA.

In this Court, the state complains that the court of appeals erroneously placed on the trial court the burden of making a record of its reasoning in finding good cause that justified a second

continuance. Because the second state continuance appears to have been granted because of a new indictment, determining whether the allegations in the new indictment were sufficiently different so as to necessarily require reworking of the state's case requires comparison of the two indictments. The burden of making a record that permits such a comparison rests with the party who opposed the continuance—appellant. The record includes only the second indictment. Appellant did not carry his burden of providing an adequate record on appeal and so must bear the consequences.

I therefore join the opinion of the Court.

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