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Man's indictment tossed over speedy trial issues

Defendant arrested 12 years after shooting, eight years after indictment



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A man accused of a shooting 12 years ago will not have to stand trial because police waited too long to track him down, the Missouri Supreme Court ruled Friday.

In a 4-3 decision, the court said David T. Garcia was prejudiced by the eight-year delay between his indictment and his arrest in con-

nection with the 1998 attack at a Chinese restaurant in Kirkwood. The shooting seriously wounded an employee.

Based on witness accounts, Garcia was charged by indictment in 2002 with first-degree assault. However, police made "no efforts" to locate him until 2009, when a Kirkwood detective ran his Social Security number through a computer database and found he'd been living in Chicago for about 10 years.

During the intervening years, most of the key witnesses have disappeared, and the restaurant where the shooting occurred has been demolished.

"The state must show that Garcia's defense was unimpaired," Judge Michael Wolff, joined by Judges Richard Teitelman, Laura Denvir Stith and Mary Russell, wrote for the majority. "Too many witnesses and too many years have slipped away for the state to carry this burden."

But Chief Justice William Ray Price Jr. dissented, saying Garcia "is the principal cause of the police's delay in locating him" because he fled the state. Price, joined by

Judges Patricia Breckenridge and Zel Fischer, said Garcia's prosecution should have been allowed to go forward.

"The majority ignores the plain fact that police departments have limited resources," he said.

Garcia's St. Louis attorneys, Joseph F. Yeckel, of the Law Office of Joseph F. Yeckel, and Grant J. Shostak, of Shostak & Shostak, hailed the decision. Yeckel said the case was procedurally unusual in that it wasn't a post-conviction appeal but rather a pre-trial request that the Supreme Court intervene.

The state's high court agreed that Garcia's right to a speedy trial was violated and issued a writ of mandamus directing St. Louis County Judge Steven Goldman to dismiss the indictment.

Prosecutor Bob McCulloch did not return a phone call. Detective Dave Smith, a spokesman for the Kirkwood Police Department, said he was unfamiliar with the case and declined to give an immediate comment.

The case is *State ex rel. David T. Garcia v. The Honorable Steven H. Goldman*, SC90833