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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 12 CR 12642
	)	
MYRIAM FORERO-GOMEZ,	)	Honorable
	)	Gregory R. Ginex,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE CUNNINGHAM delivered the judgment of the court.  
Presiding Justice Delort and Justice Connors concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The trial court did not abuse its discretion in denying the defendant's request to substitute counsel during posttrial proceedings where it found the request to be a delay tactic, where the defendant did not provide a reason for the request, and where substitute counsel was unprepared to represent her without delay.
- ¶ 2 Following a bench trial, defendant Myriam Forero-Gomez was found guilty of aggravated battery of a peace officer and resisting or obstructing a peace officer. She was sentenced to two concurrent terms of 30 months' probation. She now appeals, arguing that the

trial court deprived her of her right to the counsel of her choice when it denied her request to substitute counsel during posttrial proceedings.<sup>1</sup> For the following reasons, we affirm the judgment of the circuit court of Cook County.

¶ 3 The defendant and her son, James Chavez,<sup>2</sup> were each charged by indictment with nine counts of aggravated battery of a peace officer (720 ILCS 5/12-3.05(d)(4) (West Supp. 2011)) and one count of resisting or obstructing a peace officer (720 ILCS 5/31-1(a-7) (West 2012)) in connection with an incident at their apartment building on June 12, 2012. Six of the nine aggravated battery counts against the defendant alleged that she knowingly made provoking or insulting physical contact with Berwyn police officer Carl Gray while he was performing his official duties. The remaining aggravated battery counts alleged that she did the same to Berwyn police officer Tom Garcia. The resisting or obstructing charge alleged that the defendant injured Officer Gray while knowingly resisting or obstructing him in the performance of his official duties.

¶ 4 Private attorney Roy Amatore represented both the defendant and James. Amatore first appeared in court for the defendant on July 26, 2012, and the case was originally set for a joint jury trial on February 3, 2014. However, the trial was postponed due to ongoing discovery issues. At a hearing on April 28, 2014, Amatore informed the court that the defendant and James wished to have a bench trial instead. The court then set a bench trial for July 30, 2014. Amatore appeared on that date, but informed the court that he did not understand that the case was set for

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<sup>1</sup> In her initial brief on appeal, the defendant also argued that her fines and fees order should be corrected in several respects. However, in her reply brief, she has withdrawn her fines and fees argument in light of Illinois Supreme Court Rule 472 (eff. May 17, 2019), which requires such claims to be first presented to the circuit court.

<sup>2</sup> Because James Chavez shares a surname with Anderson Chavez, another person mentioned in this order, we will refer to them by their first names. Neither is a party to this appeal.

trial. Consequently, the court again postponed the trial, and scheduled a final status hearing for September 15, 2014. On that date, Amatore stated that his clients now wanted a jury trial, and the court set a jury trial date of December 9, 2014. On December 9, 2014, however, the defense was not ready for trial because Amatore had been unable to interview certain witnesses due to his own medical appointments.

¶ 5 The trial court reset the case for a jury trial to begin on March 3, 2015. However, James was not present on that date because he had been arrested on a separate, unrelated matter. Amatore informed the court that his clients now wanted a bench trial, and a status hearing was set for March 16, 2015. At that hearing, the case was set for a bench trial on June 5, 2015, but was again continued until July 8, 2015. The matter was next set for trial on September 11, 2015, but the State was unable to proceed on that date because one of its witnesses had a “family emergency.” The State offered to allow the defense to present the testimony of Yenifer Perez, the defendant’s daughter who had traveled from Oklahoma, but Amatore advised that he did not wish to call witnesses out of order. Amatore discussed the matter with the court, Perez, and the State, and agreed to begin the trial on September 18, 2015. The trial was ultimately held over the course of six dates starting on September 18, 2015, and ending on December 2, 2015.

¶ 6 At the bench trial, Berwyn police detective Charles Schauer testified that on June 12, 2012, at approximately 11:30 p.m., he and other police officers responded to a call in the area of 18th Street and Gunderson Avenue. When he arrived, there was a small crowd gathered and paramedics were attending to Anthony Almarez, a young man who was “bleeding rather profusely” due to a head injury. James, Anderson Chavez (James’s younger brother), and Mark Nevarez, all teenagers (collectively, the teens), were among the crowd. After speaking to

Alvarez, Officer Schauer determined that his injuries were a result of a gang altercation. As Officer Schauer talked to James, he noticed that James smelled of alcohol and was holding a red Solo cup containing an unknown beverage. James stated that “it was the SD’s who did this,” which Officer Schauer understood as a reference to the Satan Disciples street gang. Officer Schauer told James, whom he knew lived nearby, to go home because he feared the possibility of a gang retaliation. Officer Schauer also asked Anderson and Nevarez, who told him that they lived elsewhere, to leave the area.

¶ 7 Officer Schauer was later interviewing other witnesses at the scene when he noticed Anderson and Nevarez near the gangway on 18th Street. He informed Officer Gray of their presence, and Officer Gray approached the gangway. About a minute later, Officer Schauer received a radio transmission from Officer Gray, but could not make out what he said. However, Officer Schauer heard “a lot of yelling” and believed that “some sort of struggle” was taking place. He walked to the gangway and found it empty. He then heard “some commotion” inside a nearby apartment building. Officer Schauer opened the door to the building and observed the defendant standing at the base of a stairwell, looking up to the first landing where Officers Gray, Garcia, and Jesus Areizaga were “struggling with” and attempting to arrest James, Anderson, and Nevarez.

¶ 8 Officer Schauer asked the defendant to move because she was blocking his access to the stairs, but she refused. He then grabbed her by both shoulders and moved her aside so that he could assist his fellow police officers. Officer Schauer eventually subdued, handcuffed, and removed James from the building. Outside, he transferred custody of James to Officer Matt

Burke. Officer Schauer then returned to the stairwell where he saw the defendant and Perez, as well as Anderson, who was now in custody.

¶ 9 The State published a 63-second video that Perez recorded from the second landing of the stairwell. The video, which is included in the record on appeal, shows Officers Schauer, Gray, Garcia, and Areizaga attempting to handcuff James and Anderson on the first landing while the defendant stands behind them. During the struggle, the defendant places her left hand on Officer Gray's shoulder and her right arm briefly around his neck. After James and Anderson are subdued, Officer Gray informs the defendant that she is "going to jail too" for pulling on him. In response, the defendant wags her finger "no," and she and Perez insist that she "didn't do nothing." The defendant then goes upstairs, off camera.

¶ 10 Officer Gray testified that he responded to Almarez's battery and saw James outside talking about the "SDs," which Officer Gray understood to mean the Satan Disciples street gang. Officer Gray knew that James was a member of the Latin Kings, a rival gang. Fearing that James would "plan some form of retaliation," Officer Gray told the teens to go home several times. The teens eventually left the area, but Officer Schauer later informed Officer Gray that Anderson and Nevarez had returned. Officer Gray walked to the gangway where Officer Schauer had spotted the teens, and heard them talking about the Satan Disciples in a nearby apartment building. Nevarez exited the building into the gangway, and Officer Gray told him that he was under arrest. Nevarez pushed Officer Gray and yelled "get your hands off me." James came to the base of the stairwell and attempted to pull Nevarez inside, telling Office Gray that "this is private property, get the f\*\*\* out of here." Officer Gray informed James that he was also under arrest. During an ensuing struggle, both James and Nevarez struck Officer Gray in the torso. Officer

Gray smelled alcohol on their breath. He radioed for assistance, although it was “extremely difficult to do” while wrestling with James and Nevarez. Anderson and the defendant then came downstairs, and Anderson also struck Officer Gray. The defendant pulled on Officer Gray’s vest from behind, scratched his arm, and placed her arm around his neck several times. She also struck him in his arms, torso, and legs. Officer Gray identified photographs of the scratches the defendant made to his right arm during the struggle.

¶ 11 Officers Garcia, Areizaga, and Schauer arrived in the stairway and helped Officer Gray arrest the teens. Officer Gray then told the defendant that she was also “going to jail” for pulling on his vest. She wagged her finger at him, said “no,” and retreated up the stairs into her apartment, but Officer Gray did not pursue her. On cross-examination, Officer Gray explained that he did not follow the defendant because she did not pose an ongoing safety threat, they were short on officers, and she would be easy to locate later.

¶ 12 Officer Garcia testified that he was at the scene in response to Almarez’s battery when he heard “loud voices” coming from the defendant’s apartment building. As he approached the building, he received Officer Gray’s radio request for assistance. From the gangway, Officer Garcia observed the defendant standing behind Officer Gray on the stairway as Officer Gray attempted to handcuff Nevarez. James was also present. The defendant grabbed Officer Gray’s vest and attempted to pull him away while he was wrestling with Nevarez. Officer Garcia entered the stairway to assist Officer Gray, and James punched Officer Garcia in the face. “[A] bit of a scramble” ensued, during which Anderson arrived and tried to pull James upstairs. Officers Schauer and Areizaga also arrived, and the police officers eventually gained control of

the situation. On cross-examination, Officer Garcia stated that he did not see the defendant punch or kick any of the police officers.

¶ 13 Officer Burke testified that he arrived at the stairway in response to Officer Gray's radio transmission and heard a "melee" coming from above. He climbed a flight of stairs and found Officer Schauer descending the stairs, struggling with a handcuffed James. Officer Schauer transferred custody of James to Burke, who escorted him outside. As Officer Burke walked James through the doorway, James pulled away and fell onto the sidewalk, causing him to bleed from the mouth. Officer Burke regained control and escorted James away from the building. James then turned around, spat blood in Officer Burke's face, and said "I got AIDS. How do you like that motherf\*\*\*er?" Sergeant Ramon Ortiz assisted Officer Burke by pulling James's shirt over his head to prevent further spitting. James was placed in a squad car and transported to the police station.

¶ 14 Sergeant Ortiz testified consistently with Officer Burke. He added that, when Officer Schauer removed Anderson from the building, Anderson complained of a leg injury. An ambulance arrived, and the paramedics informed Officer Ortiz that they needed a parent's permission to treat Anderson because he was a minor. Officer Ortiz went to the defendant's apartment and spoke with her through the closed door. The defendant eventually agreed to open the door and speak to the paramedics if Sergeant Ortiz waited downstairs. The paramedics obtained her permission to treat Anderson.

¶ 15 After learning of the defendant's actions during the teens' arrest, Sergeant Ortiz decided to arrest her whenever she came to pick up one of her sons. The defendant was subsequently arrested at the hospital after she signed a form authorizing further treatment for Anderson. On

cross-examination, Sergeant Ortiz stated that he “was told” that the defendant interfered with the other police officers “by pushing, pulling, [and] placing her arm around somebody’s neck.” He did not remember anybody mentioning that the defendant kicked a police officer.

¶ 16 The defense called Officer Areizaga, who testified that he entered the apartment building in response to Officer Gray’s radio call and encountered Anderson at the bottom of the stairs. Anderson spat in Officer Areizaga’s face and ran upstairs. Officer Areizaga pursued Anderson and detained him on the landing below the level where the other police officers were attempting to arrest James and Nevarez. Officer Areizaga observed the defendant grab Officer Gray’s vest at the shoulders and pull against him in a “tug of war” fashion. He did not see the defendant touch the other police officers, though he was focused on keeping Anderson detained. Officer Areizaga stated that the defendant resisted arrest by “backpedaling at the top of the stairs, and her noncompliance and her shrugging her shoulders, wiggling her arms to try to defeat Officer Gray from keeping a hold of her.” He was shown Perez’s video, and agreed that it did not capture these actions. However, he stated that the video showed the defendant holding Officer Gray from behind and “swing[ing] at him.”

¶ 17 Berwyn police detective Robert Arnonny, whose duties include investigating criminal allegations against juveniles, testified that he interviewed Officers Gray, Schauer, Garcia, and Areizaga hours after the incident. Officer Gray told Detective Arnonny that Nevarez, Anderson, James, and the defendant all struck and kicked him when he tried to arrest Nevarez. Detective Arnonny acknowledged that Officer Areizaga told him that the defendant and the others “were violently resisting by punching, kicking, and spitting on [Officers] Gray and Garcia.”



¶ 18 Anderson testified that on the night of the incident, he and Nevarez returned home from a violence-prevention lecture to find emergency responders in front of his apartment building. As they approached the scene, a police officer told Anderson to “[g]et the f\*\*\* out of here. Go home.” He, James, and Nevarez “quickly” walked straight into the building. As they were ascending the stairway, a police officer pulled Nevarez down by his hair from behind. More police officers entered the stairway “a couple of seconds” later and tackled Anderson. He “instinctively” put his hand behind his back to show that he was not resisting, but realized that the police were not trying to handcuff him. Instead, an officer pinned Anderson to the floor by putting his hands and knees on Anderson’s chest, which irritated his asthma. Anderson tried to tell the police officer that he could not breathe, but another police officer began punching him in the stomach. While he was being punched, Anderson saw a third police officer choking Nevarez, and Perez taking photographs of the events. He did not see James resisting arrest and did not see the defendant kick or pull a police officer. After being removed from the building, Anderson saw James in the gangway with blood “pouring out of his nose and mouth.” A police officer continued to escort Anderson toward the street, but he looked back to see James “getting slammed” backward on the sidewalk. Anderson was then taken to the hospital and treated for a sprained ankle.

¶ 19 Perez testified that on the night of the incident, she was in the apartment she shared with James and the defendant when she heard the defendant screaming in the stairwell. Perez exited the apartment and saw James and Anderson lying on the landing below. The defendant was “just standing” there in her pajamas. Perez retrieved a camera and began recording.

¶ 20 On cross-examination, Perez stated that she also saw Nevarez and “all the cops” in the stairway. Anderson was screaming, “I can’t breathe.” Perez did not recall seeing the defendant standing behind Officer Gray. After the teens were removed from the building, Officer Gray told the defendant that she was going to jail. The defendant responded by repeatedly saying “no” and wagging her finger at Officer Gray. Perez and the defendant then returned to their apartment.

¶ 21 The defendant testified through a Spanish interpreter. She testified that she was at home with Perez on the night of the incident. The defendant went to bed around 9 p.m., but later was awakened by lights outside. She looked out the window and saw the teens talking to the police across the street. A police officer told James to go home, and he walked toward the apartment building. Shortly thereafter, a different police officer angrily walked in the same direction. The defendant exited her apartment and saw the teens coming up the stairway. The “very mad” police officer followed them up the stairs. The defendant was afraid and began screaming. Nevarez jumped over the railing to the other side of the stairs. The police officer grabbed Nevarez by his long hair and threw him to the floor. More police officers entered the stairway as the defendant continued to scream. She denied that she, James, Anderson, and Nevarez fought with the police officers. She did not kick, choke, punch, or pull on any of the police officers.

¶ 22 After the teens were arrested and removed from the building, a police officer returned and told her that she would be arrested as well. The defendant, who spoke “very limited” English, asked him “Why us? We haven’t done anything.” She did not understand his response. Police officers returned to her apartment approximately ten minutes later, but she did not open the door because she was afraid and she “saw what they were doing.” A police officer told her through the door that one of her sons was injured and needed her authorization to receive

medical treatment. She opened the door for the paramedics and signed an authorization form. Later that night, she was arrested while visiting Anderson at the hospital.

¶ 23 On cross-examination, the defendant stated that she knew the men in the stairway were police officers because they were in uniform. She acknowledged viewing Perez's video, but stated that it did not show her pulling on Officer Gray. Instead, she explained that she was trying to cover herself with her pajamas with one hand and hold her cell phone in the other. The defendant stated that if her arm did "come over" Officer Gray's vest, it was unintentional. The defendant did not understand what the police officer told her after the teens were arrested, but believed that he wanted to take Perez's camera. Although Sergeant Ortiz spoke to her in Spanish, she was not aware that he was a police officer when he knocked on her door after the incident.

¶ 24 At the conclusion of the trial, the trial court found the defendant guilty of resisting or obstructing Officer Gray and of all six counts of aggravated battery toward Officer Gray. The trial court found the defendant not guilty of aggravated battery toward Officer Garcia. The trial court explained that it found Officer Gray "extremely credible" and that Perez's video showed that the defendant "had her arm around the neck of Officer Gray, was pulling him back, was pulling his vest. Clearly [she] was attempting to stop him from placing people under arrest \*\*\*." The trial court ordered the preparation of a presentence investigation report, and scheduled hearings for arguments on the defendant's posttrial motion and sentencing for February 17, 2016. The defendant remained free on bond over the State's objection.

¶ 25 On February 17, 2016, Amatore informed the court that a presentence investigation was not completed because a Spanish interpreter had not been available. At the next court date, on March 24, 2016, neither the defendant nor Amatore was present. The trial court stated on the

record that Amatore had called the previous day and requested a continuance because he had a medical appointment that he could not cancel. The trial court explained that it told Amatore that “we need to resolve this, get this over with,” and that he and the defendant were expected to attend. However, the court declined to issue a warrant for the defendant’s arrest because “there may have been some confusion” about what she was told.

¶ 26 On March 29, 2016, Amatore and the defendant appeared in court alongside attorney Richard Kling. The following exchange occurred:

“MR. KLING: Good morning. For the record, my name is Richard Kling. I was contacted by the family the other day. I said, quite frankly, I don’t know whether the judge would allow me to file an appearance or not allow me. If he does, he does. If he doesn’t, he doesn’t. May I suggest we pass it for a couple minutes for an issues conference with [Y]our Honor where Mr. Amatore and myself and you can discuss—

THE COURT: Well, here, I don’t know what issues are to be discussed. The matter has been \*\*\* continued for post-trial motions. One of the reasons it was continued, Mr. Kling, so you’re aware, is they did not complete a presentence on [defendant]. Now it’s done. So it’s up today.

Now, Mr. Amatore tried this. This was a bench trial. If you are going to file an appearance as co-counsel and proceed today, I’ll allow you to file it. But I am not continuing this for you to get,

you know, transcripts, et cetera. This is ready to go for post-trial motions and sentencing today.

So if you're prepared to proceed on that today, I'll allow you to be co-counsel and you can argue with Mr. Amatore.

MR. AMATORE: Judge, my only concern—and I just want to voice it.

THE COURT: Sure.

MR. AMATORE: I'm not pressing it, but I do want to voice it. \*\*\* [I]t's been indicated to me that the family does not want me to present their post-trial motion, so I feel uncomfortable.

THE COURT: Okay. You tried the case. You were on this case for I don't know how long. Okay? We had this set for post-trial motions and sentencing. It was continued one time. It's [been] continued a second time. It's ready today.

Now, all of a sudden, they don't want you to represent them? You represented them very thoroughly. You called witnesses. \*\*\* [Y]ou got discovery on this case that was pending a long time. There's no basis that I can see, other than a delay tactic, to prevent this from going to sentencing and post-trial motions today. So we're going to proceed today.

MR. KLING: May I say one thing in response—

THE COURT: Yes.

MR. KLING: —to [Y]our Honor’s statement to me? I cannot in good conscious [*sic*] file an appearance and effectively—

THE COURT: Mr. Kling, I totally understand that, and I appreciate that.

MR. KLING: With that admonishment, I will not request leave—

THE COURT: Thank you.

MR. KLING: —to file my appearance.

THE COURT: I appreciate that.

All right. We’ll pass the case and review that.”

¶ 27 Amatore then informed the court that he was “having difficulty” procuring the audiovisual equipment required to play Perez’s video during arguments. The court replied that, “I don’t want to delay this” and that it had already viewed the video “at least 10 times,” but that Amatore would be allowed to play the video again if he could find the proper equipment expeditiously. The case was passed. The case subsequently proceeded that same day with Amatore arguing the defendant’s motion for a new trial. The court denied the motion.

¶ 28 At sentencing, Amatore emphasized in mitigation that the defendant had no prior criminal history, was a single mother of five children, and worked two jobs to support her family. The defendant spoke limited English, suffered from “extreme financial hardship,” and, according to the presentence investigation report, had spent most of her savings on attorney

fees.<sup>3</sup> She was forced to flee her native Colombia because her family was “marked and targeted for execution” by a paramilitary group that murdered one of her brothers after he refused to join. The United States granted the defendant political asylum in 2011, and she had a pending citizenship application that was “only on hold because of this trial.”

¶ 29 Amatore then began to introduce letters written by various people on the defendant’s behalf, but realized that he did not have all of them because the other attorney grabbed the stuff. “He thought he was going to do the argument.” Amatore introduced two letters that Kling had left behind, and the court noted that the substance of the others was included in the presentence investigation report.

¶ 30 After the arguments, the court merged the aggravated battery charges into a single count, and imposed concurrent sentences of 30 months’ probation for aggravated battery of a peace officer and resisting or obstructing a peace officer.

¶ 31 The defendant now appeals, arguing that she was deprived of her right to the counsel of her choice. In particular, she contends that the trial court erred in failing to inquire into the reasons why Kling sought to file an appearance or into how much time, if any, he would need to prepare to represent her.

¶ 32 We note that we have jurisdiction to review this matter, as the defendant filed a timely notice of appeal. Ill. S. Ct. R.603 (eff. Feb. 6, 2013); R.606 (eff. July 1, 2017).

¶ 33 Initially, the State contends that the defendant has forfeited review of this issue by not objecting in the trial court or including the claim in a posttrial motion. See *People v. Enoch*, 122

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<sup>3</sup> The court sustained the State’s objection to Amatore’s claim that, out of sympathy for the defendant, he “agreed to take this case pro bono \*\*\* save for the bond,” ruling that their financial arrangement was “irrelevant” and of “no consequence whatsoever to \*\*\* her sentencing.”

Ill. 2d 176, 186 (1988) (a contemporaneous objection in the trial court and a posttrial motion raising the matter are generally required to preserve an issue for review). In response, the defendant notes that the alleged error occurred on the day of sentencing, and that “the State does not explain how else [she] was to preserve an issue that arose at her final court appearance.” We observe that forfeiture is a limitation on the parties, not the courts (*People v. Jackson*, 2017 IL App (1st) 151779, ¶ 20), and find that relaxation of the general forfeiture rule is appropriate under these circumstances. See *People v. English*, 2013 IL 112890, ¶ 22 (a defendant’s failure to preserve an issue should be excused when, among other things, fundamental fairness so requires). Accordingly, we will address the merits of the defendant’s claim.

¶ 34 A criminal defendant’s constitutional right to the assistance of counsel includes the right to private counsel of her choosing. U.S. Const., amends. VI, XIV; Ill. Const. 1979, art. I, § 8. However, this right is not absolute and cannot be used to “thwart the administration of justice or to otherwise embarrass the effective prosecution of crime.” *People v. Friedman*, 79 Ill. 2d 341, 349 (1980). When faced with a defendant’s request for a continuance in order to substitute counsel, a reviewing court must balance the defendant’s rights with the need to administer justice without unreasonable delay. *People v. Ramsey*, 2018 IL App (2d) 151071, ¶ 23. A trial court’s decision to grant or deny the continuance will not be overturned absent an abuse of discretion (*People v. Segoviano*, 189 Ill. 2d 228, 245 (2000)), which occurs only when the decision is arbitrary, fanciful, or so unreasonable that no reasonable person could agree with it (*People v. Morgan*, 197 Ill. 2d 404, 434 (2001)).

¶ 35 Factors that a reviewing court considers in evaluating a trial court’s judgment regarding substitute counsel include: (1) whether the defendant’s request is a guise to delay the



proceedings; (2) whether the defendant articulated an “acceptable reason” for wanting new counsel; (3) the length of current counsel’s representation; and (4) whether substitute counsel is ready, willing, and able to begin representing the defendant. *People v. Childress*, 276 Ill. App. 3d 402, 411 (1995). A trial court generally does not abuse its discretion in denying a continuance when substitute counsel is either not willing or not ready to represent the defendant without delay. *Segoviano*, 189 Ill. 2d at 245.

¶ 36 In this case, the record demonstrates that Kling was not ready to represent the defendant at the posttrial hearing. However, Kling never requested an opportunity to argue the posttrial motion, but instead sought an “issues conference” with the court and Amatore. The court stated that it did not know what issues Kling would raise during the conference, but informed him that, regardless, he would not be allowed time to obtain transcripts and that the case would proceed without a continuance. In response, Kling stated that he would be unable to effectively represent the defendant at that time and declined to file an appearance. Thus, the record shows that Kling was not a ready and willing substitute counsel.

¶ 37 We also note that this case had been pending for several years, and involved two defendants, ten witnesses and multiple continuances. This supports the notion that Kling could not have substituted as counsel without some delay. Despite the defendant’s contention to the contrary, Amatore’s statement that Kling had taken some of Amatore’s sentencing materials does not prove that Kling was ready to represent the defendant. In any event, Amatore made this statement *after* Kling had declined to request leave to file an appearance and left the courtroom. Accordingly, we cannot say that the trial court abused its discretion based on information that was not before the court when it rendered its decision.

¶ 38 Other factors also weigh against allowing a continuance for the defendant to substitute her counsel. First, unlike several cases upon which the defendant relies, the trial court specifically found that the defendant's attempt to substitute counsel was a *delay tactic*. See *People v. Adams*, 2016 IL App (1st) 141135, ¶ 17; *People v. Brisco*, 2012 IL App (1st) 101612, ¶ 42; *Childress*, 276 Ill. App. 3d at 411. Second, the defendant had been represented by Amatore for more than three years and had never complained about him or expressed a desire to obtain different counsel. See *People v. Terry*, 177 Ill. App. 3d 185, 191 (1988) (affirming a trial court's denial of a continuance on the day of trial where current counsel had represented the defendant for nearly four months without complaint). Third, the defendant's claim that financial limitations and familial responsibilities prevented her from finding new counsel until the third posttrial date is without foundation. These factors, combined with the lack of a ready and willing substitute, demonstrate that the trial court did not abuse its discretion in denying the defendant's request for substitution of counsel.

¶ 39 The defendant nevertheless argues that the trial court erred by failing to inquire into her reasons for wanting to change attorneys. She suggests, for the first time on appeal, that Kling intended to allege that Amatore provided ineffective assistance of counsel, and was only unwilling to enter an appearance because the trial court would not allow him to represent her without Amatore as co-counsel. Although the defendant identifies several instances of Amatore's alleged deficient performance, nothing in the record shows that the defendant contacted Kling to bring such a claim or that Kling planned to do so. Moreover, the record establishes that the trial court did, in fact, conduct an inquiry into the reasons behind the defendant's request and heard from both Amatore and Kling. Amatore stated only that the defendant did not want him to

present her posttrial motion. He did not explain why. When the trial court replied that Amatore had provided thorough representation and that there seemed to be “no basis” for the defendant’s request, neither the defendant nor either attorney provided further explanation. Instead, Kling informed the court only that he had been “contacted by the family” and that he was unsure whether the court would allow him to file an appearance. While the defendant asserts that the trial court “did not permit Kling to explain any issues he might seek to raise concerning Amatore’s performance,” the record demonstrates that the court allowed Kling to speak freely and to respond to the court’s statement that it saw no legitimate reason for Amatore to withdraw. To the extent that the defendant argues that the court was required to ask her directly about her dissatisfaction with Amatore, we note that “the case law requires an inquiry, but it does not require direct questioning of a defendant who is represented by counsel.” *People v. Ramsey*, 2018 IL App (2d) 151071, ¶ 32. Thus, we find that the trial court conducted a proper inquiry into the defendant’s reasons for requesting substitute counsel.

¶ 40 As a final matter, we reject the defendant’s argument that *People v. Brisco*, 2012 IL App (1st) 101612 is “directly on point” and requires this case to be reversed. In *Brisco*, a private attorney appeared in court on the date set for posttrial motions, and requested leave to replace the public defender who represented the defendant at trial. *Id.*, ¶ 39. The private attorney also requested additional time to supplement a previously-filed posttrial motion, and the trial court replied that he would be allowed only 13 days to prepare because the judge was set to retire in 29 days. *Id.* In light of that admonishment, the private attorney withdrew his request to file an appearance because he would not have sufficient time to obtain a transcript and “do some investigation \*\*\* and things of that nature.” *Id.*

¶ 41 On appeal, this court found that the trial court's refusal to allow the private attorney adequate time to prepare violated the defendant's right to the counsel of his choice. *Id.* ¶ 48. In so finding, however, we specifically noted that the private attorney appeared on the *first* date the case was set for posttrial motions, the defendant's trial had concluded just the previous month, the defendant had previously expressed dissatisfaction with his public defender, and, as the defendant had been in presentence custody, the delay in finding substitute counsel could not be attributed to his lack of diligence. *Id.* ¶ 46.

¶ 42 *Brisco* is inapposite to the present case, where Kling did not appear until the *third* date set for posttrial motions, the defendant had never complained about Amatore's representation, and the defendant had been released on bond for nearly four months following the end of trial. More importantly, the trial court's refusal to grant the defendant a continuance was predicated on its express finding that the request was merely a delay tactic, not on the artificial deadline of a judge's retirement. Thus, *Brisco* is distinguishable and does not control here.

¶ 43 Under the circumstances of the present case, we find that the trial court did not abuse its discretion by denying the defendant a continuance to substitute her counsel.

¶ 44 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 45 Affirmed.