THE COLORADO SUPREME COURT said last week that a judge’s decision to postpone a man’s sentencing for more than six months in order to impose a longer prison term was not an excessive delay.

The court said the decision to wait until another felony case pending against the man was resolved so that it could be used as a sentence enhancer was consistent with the state legislature’s intent to punish repeat offenders more harshly.

While prosecutors applauded the decision, a Denver criminal defense attorney says he worries the ruling means that some defendants will receive sentence enhancements and others won’t simply depending on a judge’s scheduling decisions.

The underlying case
Robert Sandoval-Candelaria was initially charged with first-degree murder for killing his common law wife, but a jury found him guilty of manslaughter.

At the time of the killing, Sandoval-Candelaria was out on bond for another felony. The judge decided to postpone the manslaughter sentencing until after the other case was resolved so that it might be used as a sentence enhancer.

Sandoval-Candelaria ended up pleading guilty to the other felony more than six months later, and that was used to double his sentence in the manslaughter case, from six years to 12.

Sandoval-Candelaria argued on appeal that the delay was unreasonable and violated his constitutional right to speedy sentencing. The Colorado Court of Appeals agreed.

The appeals court said Colorado’s sentence enhancement statute allows for an enhancement if there has been a felony conviction in another case at the time of sentencing. But in Sandoval-Candelaria’s case, the court said, the other felony case hadn’t yet been resolved at the time he was originally scheduled for sentencing for the manslaughter.

The court said the judge’s decision to then postpone sentencing so that he could wait until the other case was over in order to use it as an enhancement resulted in an unreasonable delay in sentencing.

The appeals court also agreed the delay violated Sandoval-Candelaria’s constitutional right to a speedy sentence because it resulted in actual prejudice to him: a longer prison term.

New justice weighs in
The Supreme Court, in a decision penned by Justice William Hood, overturned the appeals court. The legislature’s intent in authorizing sentence enhancements was to punish repeat offenders more severely, so it was not unreasonable for the trial judge to delay Sandoval-Candelaria’s sentencing in order to give him a stiffer sentence, the court said.

“This interpretation makes sense because the applicability of (the sentence enhancement statute) should not hinge on the discretion inherent in the trial court’s decision of when to schedule a sentencing hearing,” Hood wrote. “If it did, then the General Assembly’s intent would be furthered in some cases but thwarted in others — all because of a scheduling decision.”

As for Sandoval-Candelaria’s constitutional claim, the court said the Sixth Amendment doesn’t expressly say that the right to a speedy trial also includes the right to speedy sentencing, although the U.S. Supreme Court has assumed that it does.

But the high court hasn’t drawn a line saying how long a delay violates this assumed right to speedy sentencing.

“The court has said that more than a year would be presumptively prejudicial, and Hood applied that outer limit to say that the six-month delay in Sandoval-Candelaria’s case was not unconstitutional,” he said. Because the delay was not presumptively prejudicial, Hood said, there’s no need to look at Sandoval-Candelaria’s claim that he was actually prejudiced.

Catherine Adkisson, deputy solicitor general for the Colorado Attorney General’s Office Appellate Division, applauded the court’s decision:

“The General Assembly has declared that recidivist offenders should be sentenced within an aggravated range,” she said in a prepared statement. “This opinion supports that intent by finding that sentencing proceedings can be delayed for a reasonable amount of time so the trial court has all the information it needs to make an appropriate sentencing decision.”

Inconsistent results?
Denver criminal defense attorney Sean McDermott, who is president of the Colorado Criminal Defense Bar, said he worries the decision will lead to precisely what Hood says he doesn’t want to see: inconsistent sentencing based on arbitrary scheduling decisions.

“The court, he said, offers little guidance to judges other than to say a year is too long to wait for sentencing.

This means that within that limit, a judge in one case could delay sentencing for nine months waiting for another case to be resolved, while a judge in another case could decide not to wait for a possible sentence enhancer, McDermott said.

“I think this opinion does open the trial courts up to more arbitrariness,” he said. “Different trial courts are going to be inconsistent in whether they decide to continue sentences or not.”

The result, he said, is that repeat offenders convicted of the same crime could end up with very different sentences depending on nothing more than a judge’s scheduling decisions. "— David Forster, DForster@CircuitMedia.com