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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT

<p>STATE OF IDAHO,  Plaintiff,  vs.  LORI NORENE VALLOW,  Defendant.</p>	<p><b>CASE NO. CR22-21-1624</b></p> <p><b>STATE’S OBJECTION TO DEFENDANT’S MOTION TO DISMISS FOR LACK OF SPEEDY TRIAL</b></p>
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The State of Idaho, by and through the Fremont County Prosecuting Attorney’s Office,  
Objects to Defendant’s Motion to Dismiss based on the following:

As noted in the State’s previous Motion to find Good Cause,<sup>1</sup> and in the Defendant’s  
Motion to Dismiss, a right to a speedy trial is contained in both the U.S. and Idaho Constitutions  
as well as I.C. §19-3501.

Although the U.S. and Idaho Constitutions do not have a specified length of time for  
when speedy trial is violated, the U.S. Supreme Court has determined a speedy trial analysis is  
required when there is a “presumptively prejudicial delay.” *Doggett v. United States*, 505 U.S.  
647, 652 (1992).

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<sup>1</sup> The State incorporates the arguments from the State’s Motion to Continue filed on May 2, 2022.

The Sixth Amendment guarantees that "in all criminal prosecutions, the accused shall enjoy the right to a speedy . . . trial . . . ." On its face, the Speedy Trial Clause is written with such breadth that, taken literally, it would forbid the government to delay the trial of an "accused" for any reason at all. Our cases, however, have qualified the literal sweep of the provision by specifically recognizing the relevance of four separate enquiries: whether delay before trial was uncommonly long, whether the government or the criminal defendant is more to blame for that delay, whether, in due course, the defendant asserted his right to a speedy trial, and whether he suffered prejudice as the delay's result. See *Barker, supra*, at 530.

The first of these is actually a double enquiry. Simply to trigger a speedy trial analysis, an accused must allege that the interval between accusation and trial has crossed the threshold dividing ordinary from "presumptively prejudicial" delay, since, by definition, he cannot complain that the government has denied him a "speedy" trial if it has, in fact, prosecuted his case with customary promptness. If the accused makes this showing, the court must then consider, as one factor among several, the extent to which the delay stretches beyond the bare minimum needed to trigger judicial examination of the claim. See *id.*, at 533-534. This latter enquiry is significant to the speedy trial analysis because, as we discuss below, the presumption that pretrial delay has prejudiced the accused intensifies over time. *Id.* at 651-652.

In analyzing the Defendant's speedy trial rights, it is important to start from the correct date - which is the triggering event starting the clock. The Defendant's Motion to Dismiss notes the Defendant was arrested in Hawaii on February 20, 2020. However, this arrest was conducted pursuant to a warrant in a prior case where substantially different offenses were charged. The relevant time calculations for prejudgment incarceration are determined by the nature of the offense. *State v. Keeton*, 165 Idaho 663, 667, 450 P.3d 311, 315 (2019). The Defendant's assertion, that time spent incarcerated for substantially different prior charges, should be used to calculate the Defendant's speedy trial time is inaccurate since the calculation involves different case numbers and different offenses. In this case, the Defendant was arraigned on the Indictment in front of the District Court on April 19, 2022. Although the Indictment was returned by the Grand Jury on May 25, 2021, because of competency issues raised in a prior case and the

Defendant's subsequent hospitalization, the arraignment was delayed. This delay is not attributable to the State. Therefore, the triggering date for a speedy trial analysis is April 19, 2022, pursuant to the Constitutional guidelines, as well as, I.C. §19-3501(3).

The Court initially considered the six-month guideline for speedy trial provided in I.C. §19-3501 and scheduled a trial date to begin on October 11, 2022. However, upon the State's Motion to Find Good Cause, conducting an analysis under *State v. Clark*, 135 Idaho 255 (2000), and utilizing the four-factor balancing test established by the U.S. Supreme Court in *Barker*, the Court determined there was good cause for a short delay of the trial beyond the statutory timeline.<sup>2</sup> Thus, the Court has already determined there was not a violation of the Defendant's speedy trial rights in moving the trial to January 9, 2023, and the Defendant's assertion contained in paragraph 7 (seven) is without merit. *See Defendant's Motion to Dismiss for Lack of Speedy Trial*, Pg. 3. There is no evidence of the Defendant objecting to the January trial setting.

There was a further delay relating to the Defendant's mental health in October, 2022, and the Court entered a stay of the case on October 6, 2022, to comply with I.C. §18-210. As a result of this delay, the January 2023 trial date was vacated. Factoring in this delay, it is the Defendant's position that her trial date should have started approximately 40 days after the January 9 date, which would be Saturday February 18, 2023 or the following Monday, February 20, 2023. However, this determination fails to account for the necessity of coordinating with the Court's schedule and the logistics of holding a trial in Ada County. Furthermore, it almost exclusively focuses on a strict interpretation of the six-month time limit for bringing a case to trial based upon I.C. §19-3501. Constitutional and statutory speedy rights are treated differently

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<sup>2</sup> See Court's Memorandum and Decision Granting State's Motion to Continue Trial Dated May 26, 2022.

under the law. While, “[t]he constitutional right to a speedy trial is a fundamental right;” this is not true for statutory obligations. *State v. Avelar*, 129 Idaho 700, 703, 931 P.2d 1218, 1221 (1997).

Section §19-3501 expands that right in three circumstances and provides a speedy trial guarantee above and beyond that provided by the state and federal constitutions. As a statutory expansion of a fundamental constitutional right, the statutory right to a speedy trial is not fundamental. *State v. Davis*, 141 Idaho 828, 842 (Ct. App. 2005).

A delay of 44 days beyond February 18, 2023 is not presumptively prejudicial under a Constitutional analysis for any reason. The Court has already found good cause to continue the trial beyond the six-month statutory timeline.<sup>3</sup> The basis of such a finding for good cause has not changed. Further, the Defendant filed a motion for change of venue on June 28, 2021, and Defense later affirmed on the record agreement with the decision by the Court to change venue to Ada County. So, adding forty-four days beyond the statutory time period, and allowing the Court to make necessary arrangements to try the matter in another jurisdiction hundreds of miles from the originating county, at the Request of the Defendant, with a case of this complexity is reasonable. The Court should find there has been no violation of the Defendant’s right to a speedy trial. Therefore, the State respectfully requests the Court deny the Defendant’s Motion to Dismiss for Lack of Speedy Trial.

Respectfully submitted this day 2nd of February, 2023.

/s/Lindsey A. Blake  
Lindsey A. Blake  
Prosecuting Attorney

/s/Rob H. Wood  
Rob H. Wood  
Prosecuting Attorney

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<sup>3</sup> See Court’s Memorandum and Decision Granting State’s Motion to Continue Trial Dated May 26, 2022.  
STATE’S OBJECTION TO DEFENDANT’S MOTION TO DISMISS BASED ON LACK OF  
SPEEDY TRIAL

CERTIFICATE

I HEREBY CERTIFY that on this 2<sup>nd</sup> day of February, 2023, that a copy of the foregoing Objection to Defendant's Motion to Dismiss was served as follows:

James Archibald  
[Jimarchibald21@gmail.com](mailto:Jimarchibald21@gmail.com)

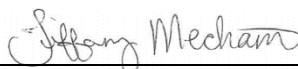
- U.S. Mail
- Hand Delivered
- Courthouse Box
- Facsimile:
- File & Serve
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- Courthouse Box
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- File & serve
- Email

By: 

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Tiffany Mecham

STATE'S OBJECTION TO DEFENDANT'S MOTION TO DISMISS BASED ON LACK OF  
SPEEDY TRIAL

**State's Objection to Defendant's Motion to Dismiss for Lack of Speedy Trial Ex. 1**

Date	Action/Filing	Notes/Calculation
5-25-21	New Indictment Filed	Different charges than previously filed
5-25-21	Warrant Returned	(2 days)
5-27-21	Court order staying Fremont County CR22-21-1624	Stay
6-9-21	Second Court Order staying Fremont County CR22-21-1624	Stay
6-28-21	Defense Motion for Transfer (change of venue)	Stay
9-1-21	Court order extending Defendant Daybell's commitment	Stay
9-22-21	Court extending commitment 180 days	Stay
	Defendant's initial counsel removed due to conflict of interest	Stay
4-11-22	Defendant found fit to proceed	
4-19-22	Defendant arraigned on Fremont County CR 22-23-1624	Arraignment (180 days from 4/19/22)
4-19-22	Cause set for trial October 11, 2022	
4-19-22	Defendant found indigent; co-counsel appointed	
5-2-22	State's motion for continuance based on good cause filed	
5-12-22	Defense response to request for continuance – written assertion of request for speedy trial	
5-26-22	Court found "good cause" to continue and move trial date from 10-11-22 to 1-9-23 (Any continuance by the defense beyond six months would be considered a waiver.)	
10-3-22	Defendant motion to continue, toll and stay	Stay
10-6-22	Court order granting defense motion, toll and stay – trial setting of 1-9-23 vacated	Stay
11-9-22	Hearing on Defendant trial status	Stay
11-15-22	Court order stay on CR 22-23-1624 lifted – no trial setting by the Court	Stay lifted
12-16-22	Trial setting on CR 22-23-1624 for April 3 to June 9, 2023	No objection to the setting by the Defense
1-25-23	Motion to Dismiss for Speedy Trial Violations	