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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

Opinion No. 2025-UP-338

THE STATE,

RESPONDENT,

V.

RONZELL BILAH OLDS,

APPELLANT

APPELLATE CASE NO. 2022-000336

Petition for Rehearing

Pursuant to Rule 221(a), SCACR, counsel for Petitioner, Ronzell B. Olds, respectfully requests that this Court grant rehearing. On October 8, 2025, this Court affirmed the sentences and convictions for armed robbery and possession of a weapon during the commission of a violent crime. State v. Ronzell Bilah Olds, No. 2025-UP-338 (S.C. Ct. App. filed October 8, 2025). While this Court correctly found that the circuit court abused its discretion by determining that the length of the delay was not sufficient to trigger an analysis of the Barker v. Wingo factors, this Court held Petitioner's right to a speedy trial was not violated. Respectfully, counsel submits this Court overlooked the fact that, other than the approximate one-and-a-half-

year delay caused by the COVID-19 pandemic, the reasons for the delay between Petitioner's arrest on January 16, 2018, and trial on March 7, 2022, must be weighed against the State. Respectfully, with regard to the portion of delay prior to the COVID-19 pandemic, January 16, 2018 until March of 2020, counsel submits that this Court misapprehended the Barker v. Wingo analysis with regard to the reason for the delay factor by requiring Petitioner to show that this portion of the delay was the result of the State's willful neglect. While the State's failure to indict Petitioner until February 7, 2022, should be considered willful neglect, at the very least the failure to indict is certainly negligent on the part of the State and must be weighed against the State in the same way that the post-pandemic delay must be weighed against the State. The entire delay from the January 2018 arrest to the March 2022 trial, excluding the one-and-a-half year attributable to the COVID-19 pandemic, should count against the State.

Additionally, counsel respectfully submits that this Court misapprehended the Barker v. Wingo analysis with regard to the prejudice factor. Respectfully, this Court overlooked the fact that prejudice is just one factor to consider in the speedy trial analysis and the presumed prejudice of the delay in this case was not extenuated or persuasively rebutted. Counsel seeks rehearing. Applying the correct analysis under the Barker v. Wingo factors, Petitioner's speedy trial rights were violated.

Discussion

Petitioner was arrested for the Sunoco armed robbery on January 16, 2018. Petitioner first asserted his right to a speedy trial in a written motion, captioned Motion to Dismiss – Speedy Trial and Pre-Indictment Delay, filed May 26, 2020. (R. pp. 1-4). The State filed a written response. (R. pp. 5-11). The motion was heard virtually by the Honorable R. Markley Dennis, on June 17, 2020. (R. pp. 12-21). Judge Dennis denied the motion to dismiss in a

written order signed June 23, 2020. (R. pp. 23-24). In the order denying the motion to dismiss, the judge only addressed prejudice and failed to address the other Barker v. Wingo[1] factors.

Petitioner next asserted his right to a speedy trial in a written motion, captioned Motion to Dismiss – Speedy Trial and Pre-Indictment Delay, filed January 27, 2022. (R. pp. 25-28). The State moved for a continuance that same day, January 27, 2022, based on the fact that the case had still not been indicted. (R. pp. 29-41). The motion was heard via WebEx by the Honorable Deadra L. Jefferson on January 27, 2022. (R. pp. 42-84). Judge Jefferson denied the motion in a written order signed February 18, 2022.[2] (R. pp. 85-90). In the written order Judge Jefferson wrote:

> The Court finds that the Defense has failed to establish the "trigger" required of the interval between accusation and trial crossing the threshold dividing ordinary from "presumptively prejudicial" delay. The South Carolina Supreme Court in Hunsberger defines presumptively prejudicial as a delay that exists when an accused is not prosecuted with ordinary promptness. 418 S.C. at 343, 797 S.E.2d at 372.

(R. p. 87). Judge Jefferson additionally wrote in the written order, "The total delay in this case is not sufficient to trigger a review of the other factors for speedy trial. As a result of the delays precipitated by the COVID-19 pandemic, this was a routine delay in light of the Nation's state of emergency and the resulting inability to conduct jury trial in the State of South Carolina." (R. p. 89). In footnote #13 of the order the judge wrote, "During the COVID-19 pandemic, the courts were closed, by Administrative Order, beginning March 18, 2020 and did not begin to resume Jury trials until April 5, 2021, assuming the County had an approved Safety Plan. The Defendant's [sic] was arrested o August 17, 2020." (R. p. 90). Earlier in the order, however,

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[1] 407 U.S. 514 (1972).

[2] On February 7, 2022, after the hearing but before the order issued, the State obtained indictments for the Sunoco robbery.

the judge correctly noted that Appellant was arrested on January 16, 2018, not August 17, 2020. (R. p. 85).

Finally, the judge wrote in the order, "The Court finds the Defense has not established an inordinate delay; the reasons for the delay in the disposition of the charges are well with the usual course of trial preparation and COVID-19 pandemic and no "presumptive" prejudice has been established by the accused. Therefore, as the Court has found that the Defense has not established "presumptive delay," the Court need not reach the other three factors. Barker v. Wingo, 470 U.S.415, 530 (1972). (R. p. 90).

When the case was finally called to trial on March 7, 2022, Petitioner renewed the motion to dismiss based on the speedy trial violation. (R. p. 104, line 20 – p. 106, 107, lines 1-7). The motion was again denied. (R. p. 107, lines 3-7). At the close of the State's case Appellant renewed the motion to dismiss for the speedy trial violation. (R. p. 454, line 18 – p. 455, lines 1-22).

In State v. Hunsberger, 418 S.C. 335, 342, 794 S.E.2d 368, 371 (2016), the South Carolina Supreme Court wrote, "The Sixth Amendment to the United States Constitution provides, 'In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.' U.S. Const. amend. VI. Similarly, the South Carolina Constitution provides that "Any person charged with an offense shall enjoy the right to a speedy and public trial." S.C. Const. art. I, § 14. A speedy trial means a trial without unreasonable and unnecessary delay. State v. Langford, 400 S.C. 421, 441, 735 S.E.2d 471, 482 (2012) (quoting Wheeler v. State, 247 S.C. 393, 400, 147 S.E.2d 627, 630 (1966)). In Smith v. Hooey, 393 U.S. 374, 374–75, 89 S. Ct. 575, 575, 21 L. Ed. 2d 607 (1969), the United States Supreme Court wrote, "In Klopfer v. North Carolina, 386 U.S. 213, 87 S.Ct. 988, 18 L.Ed.2d 1, this Court held that, by virtue of the

Fourteenth Amendment, the Sixth Amendment right to a speedy trial is enforceable against the States as 'one of the most basic rights preserved by our Constitution.' Id., at 226, 87 S.Ct. at 995." The remedy for a speedy trial violation is dismissal of the charges. Langford, 400 S.C. at 442, 735 S.E.2d at 482 (internal citation omitted).

In determining whether a defendant has been deprived of the right to a speedy trial, the court must consider four factors: (1) the length of the delay; (2) the reason for the delay; (3) the defendant's assertion of the right; and, (4) prejudice to the defendant. Barker v. Wingo, 407 U.S. 514, 530, 92 S.Ct. 2182, 33 L.Ed 2d 101 (1972). Although there is no fixed time in which a defendant must be tried, the right to a speedy trial may be violated where the delay is arbitrary and unreasonable. State v. Waites, 270 S.C 104, 108, 240 S.E.2d 651, 653 (1978). In a footnote in Doggett v. United States, 505 U.S. 647, 112 S.Ct. 2686, 120 L.Ed.2d 520 (1992), the Court wrote, "Depending on the nature of the charges, the lower courts have generally found post accusation delay 'presumptively prejudicial' at least as it approaches one year." Doggett Fn. 1

In Langford, 400 S.C. 421, 442, 735 S.E.2d 471, 482 (2012) the Court wrote:

> We begin our analysis with the "triggering mechanism" of a speedy trial claim, which is the length of the delay. Barker, 407 U.S. at 530, 92 S.Ct. 2182. We should not even examine the remaining factors "[u]ntil there is some delay which his presumptively prejudicial." Id. The clock starts running on a defendant's speedy trial right when he is "indicted, arrested, or otherwise officially accused," and therefore we are to include the time between arrest and indictment. United States v. MacDonald, 456 U.S. 1, 6, 102 S.Ct. 1497, 71 L.Ed.2d 696 (1982).

The over two-year delay between arrest and the first assertion of the speedy trial right in the present case triggers the speedy trial analysis.

This Court correctly held the circuit court abused its discretion by determining that the length of delay was not sufficient to trigger an analysis of the Barker v. Wingo factors. In the brief Respondent asserts that the approximate forty-eight-month delay between the

January 2018, arrest and the March 2022, trial "was likely sufficiently lengthy to warrant consideration of the relevant speedy trial factors by the circuit court judges." (Brief of Respondent p. 27). A speedy trial analysis was triggered by the delay in this case.

Reason for Delay

In finding no speedy trial violation despite the delay this Court discussed the second Barker v. Wingo factor, reason for the delay, writing, "Regarding the portion of delay prior to the COVID-19 pandemic that the State asserted was due to good faith plea negotiations, trial preparation, and a continuance, to which neither party objected, we find Olds failed to meet his burden to show that this portion of the delay was the result of the State's "willful neglect." See State v. Smith, 307 S.C. 376, 411-12, 415 S.E.2d 409, 411-12 (Ct. App. 1992) (indicating the burden is on the defendant to show that "delay was due to the neglect and willfulness of the State's prosecution"). State v. Olds, No. 2022-000336, 2025 WL 2849097, at *2 (S.C. Ct. App. Oct. 8, 2025). Respectfully, this Court erred in requiring Petitioner to prove "willful neglect" before weighing the reason for the delay against the State. While the State's failure to indict Petitioner until February 7, 2022, should be considered willful neglect, at the very least the failure to indict was certainly negligent on the part of the State and must be weighed against the State in the same way that the post-pandemic delay must be weighed against the State.

Additionally, plea negotiations, trial preparation, and a continuance do not justify the failure to indict prior to the COVID-19 pandemic. The case could not be called for trial without an indictment. The State is solely responsible for seeking indictments. A reason given for by the State for failure to indict in a timely manner was "an oversight." (R. p. 11). Oversight must be counted against the State.

In discussing the remainder of the delay, outside the COVID-19 delay, this Court wrote:

> As to the period of post-pandemic delay the State attributed to assignment of the case to a new assistant solicitor and the "post-pandemic condition of the docket," we find these reasons for delay "weigh[ ] less heavily" against the State. Additionally, we find the delay between the planned January 2022 trial and the March 2022 trial due to the State's failure to indict Olds weighs less heavily against the State because there is no indication on appeal that this delay was deliberate or willful. See Langford, 400 S.C. at 443, 735 S.E.2d at 483 ("Neutral reasons, which could include overcrowded dockets or negligence, are 'weighted less heavily' but still count against the State because it bears the ultimate responsibility for these circumstances." (quoting Barker, 407 U.S. at 531)).

State v. Olds, No. 2022-000336, 2025 WL 2849097, at *2 (S.C. Ct. App. Oct. 8, 2025). The entire delay from the January 2018 arrest to the March 2022 trial, excluding the one-and-a-half year attributable to the COVID-19 pandemic, should count against the State.

Prejudice

This Court correctly held Petitioner asserted his right to a speedy trial, a factor weighing in Petitioner's favor. In discussing prejudice, however, this Court wrote:

> We hold Olds failed to establish this court should presume prejudice because although his trial was delayed for just over four years, which is at least three times the length of delay necessary to trigger the speedy trial analysis, the delay was the result of either neutral factors or those weighing only slightly against the State and was not due to inexcusable oversights or intentional conduct by the State. See Hunsberger, 418 S.C. at 351, 794 S.E.2d at 376 ("[A]n accused can assert actual prejudice or presumptive prejudice as the result of the State's violation of his right to a speedy trial."); Doggett, 505 U.S. at 657-58 (comparing the portion of the delay attributable to the prosecution's negligence to the threshold necessary to trigger a speedy trial claim for analyzing presumptive prejudice); id. ("[N]egligence unaccompanied by particularized trial prejudice must have lasted longer than negligence demonstrably causing such prejudice."); id. at 658 (stating that even if the length of delay is sufficiently long to presume prejudice, a defendant may still be precluded from relief if the presumption of prejudice has been extenuated or has been "persuasively rebutted").
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> State v. Olds, No. 2022-000336, 2025 WL 2849097, at *3 (S.C. Ct. App. Oct. 8, 2025).

Respectfully, this Court overlooked the fact that prejudice is just one factor to consider in the

speedy trial analysis and the presumed prejudice of the delay in this case was not extenuated or persuasively rebutted. Additionally, the failure to indict for over four years should be considered inexcusable oversight. Applying the correct analysis under the Barker v. Wingo factors, Prejudice should be presumed.

Actual prejudice is not required to establish a speedy trial violation. The Court in Barker wrote:

> Prejudice, of course, should be assessed in the light of the interests of defendants which the speedy trial right was designed to protect. This Court has identified three such interests: (i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired. Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system. If witnesses die or disappear during a delay, the prejudice is obvious. There is also prejudice if defense witnesses are unable to recall accurately events of the distant past. Loss of memory, however, is not always reflected in the record because what has been forgotten can rarely be shown.

Barker v. Wingo, 407 U.S. 514, 532, 92 S. Ct. 2182, 2193, 33 L. Ed. 2d 101 (1972).

In Doggett v. United States, 505 U.S. 647, 112 S.Ct. 2686, 120 L.Ed.2d 520 (1992), the Court granted relief while noting that Doggett "did indeed come up short" in making "any affirmative showing that the delay weakened his ability to raise specific defenses, elicit specific testimony, or produce specific items of evidence." As a result, the Court explained "we generally have to recognize that excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove, or for that matter, identify." In light of the difficult nature of proving prejudice, the Court held that the importance of presumptive prejudice increases with the length of delay. Doggett, 505 U.S. at 655-656. In the absence of proof of particularized prejudice, the state's negligence and a substantial delay will compel relief unless the presumption of prejudice is either "extenuated, as by the defendant's acquiescence, or persuasively rebutted" by the prosecution. Id. at 658. The State's negligence and the substantial delay compel relief. The presumption of prejudice

in the present case was neither extenuated by Petitioner's acquiescence, nor persuasively rebutted by the prosecution. Prejudice should be presumed.

In Moore v. Arizona, 414 U.S. 25, 26, 94 S. Ct. 188, 189-90, 38 L. Ed. 2d 183 (1973) the United States Supreme Court wrote:

> A defendant is not required to show prejudice affirmatively to win a speedy trial claim. The state court was in fundamental error in its reading of Barker v. Wingo and in the standard applied in judging petitioner's speedy trial claim. Barker v. Wingo expressly rejected the notion that an affirmative demonstration of prejudice was necessary to prove a denial of the constitutional right to a speedy trial:
>
> 'We regard none of the four factors identified above (length of delay, reason for delay, defendant's assertion of his right, and prejudice to the defendant) as either a necessary or sufficient condition to the finding of a deprivation of the right of speedy trial. Rather, they are related factors and must be considered together with such other circumstances as may be relevant. In sum, these factors have no talismanic qualities; courts must still engage in a difficult and sensitive balancing process. But, because we are dealing with a fundamental right of the accused, this process must be carried out with full recognition that the accused's interest in a speedy trial is specifically affirmed in the Constitution.' 407 U.S., at 533, 92 S.Ct., at 2193 (footnote omitted).
>
> In addition to possible prejudice, any court must thus carefully weigh the reasons for the delay in bringing an incarcerated defendant to trial. In the face of petitioner's repeated demands, did the State discharge its 'constitutional duty to make a diligent, good-faith effort to bring him (to trial)'? Smith v. Hooey, 393 U.S. 374, 383, 89 S.Ct. 575, 21 L.Ed.2d 607 (1969).

In Hunsberger the South Carolina Supreme Court wrote:

> First, we note that the trial court's ruling was influenced by an error of law in so much as it rested on a belief that actual prejudice—to the exclusion of presumptive prejudice—was the only type of prejudice that would support a speedy trial claim. In fact, an accused can assert actual prejudice or presumptive prejudice as the result of the State's violation of his right to a speedy trial. Actual prejudice occurs when the trial delay has weakened the accused's ability to raise specific defenses, elicit specific testimony, or produce specific items of evidence. See Doggett, 505 U.S. at 655, 112 S.Ct. 2686 (accepting the State's definition of actual prejudice). The United States Supreme Court also recognized that excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove or even identify. Id. (internal citation omitted). This is

> so because "time's erosion of exculpatory evidence and testimony 'can rarely be shown.'" Doggett, 505 U.S. at 655, 112 S.Ct. 2686 (citing Barker, 407 U.S. at 532, 92 S.Ct. 2182). When the government persistently fails to try an accused and the delay is excessive, the accused need not show actual prejudice in order to prevail in his speedy trial claim. Doggett, 505 U.S. at 657–58, 112 S.Ct. 2686. While presumptive prejudice cannot alone support a speedy trial claim, it is part of the mix of relevant facts, and its importance increases with the length of time. Doggett, 505 U.S. at 656, 112 S.Ct. 2686 (internal citation omitted).

418 S.C. at 351, 794 S.E.2d at 376. Prejudice should also be presumed in the present case.

In Langford, 400 S.C. 421, 441-442, 735 S.E.2d 471, 482 (2012) the Court wrote:

> The Supreme Court has counseled further that none of these factors is "either a necessary or sufficient condition to the finding of a deprivation of the right of speedy trial." Barker, 407 U.S. at 533, 92 S.Ct. 2182. Instead, they are all related and must be considered along "with such other circumstances as may be relevant." Id. Thus, the Supreme Court created a balancing test which is a rejection of "inflexible approaches" and weighs "the conduct of both the prosecution and the defense." Id. at 529–30, 92 S.Ct. 2182.

Weighing the conduct of both the prosecution and the defense, the substantial delay and the negligence on the part of the State in failing to indict in a timely manner, Petitioner's state and federal right to a speedy trial was violated . The following outline of events supports the finding:

- January 16, 2018 – Arrest
- March 2020 – COVID
- May 26, 2020 – 1st Motion to Dismiss for Speedy Trial Violation
- September 2021 – Jury trials resume
- January 27, 2022 - 2nd Motion to Dismiss for Speedy Trial Violation
- February 7, 2022 – Indicted
- March 7, 2022 - Trial

Oversight or negligence in the failure to indict the case in a timely manner counts against the State because the State bears the ultimate responsibility of seeking an indictment so that the case may proceed to trial. The over two-year delay prior to COVID and the six-month delay after jury trials resumed is attributable to the State. Plea negotiations, trial preparation, and a continuance are not valid reasons for the State's delay when the State could not have proceeded to trial without an indictment prior to February 7, 2022. Petitioner's assertion of his speedy trial right weighs in his favor. As in Doggett, while Petitioner may "come up short" showing actual prejudice, prejudice should be presumed. Properly balancing the length of the delay, the State's "oversight" as willful neglect, or at the least in negligently failing to indict as the reason for the delay, Petitioner's assertion of the speedy trial right, and presumed prejudice, this Court should find Petitioner's speedy trial rights were violated.

Counsel respectfully seeks rehearing and a finding that Petitioner's right to a speedy trial was violated.

Kathrine H. Hudgins
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ATTORNEY FOR APPELLANT

This 23rd day of October, 2025.

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Oct 23 2025
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RONZELL BILAH OLDS,

APPELLANT

APPELLATE CASE NO. 2022-000336

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Petition for Rehearing in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Ronzell B. Olds, #358391, at Evans Correctional Institution, 610 Hwy. 9 West, Bennettsville, SC 29512, this 23rd day of October, 2025.

Kathrine H. Hudgins
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ATTORNEY FOR APPELLANT

From: Stock, Chris
To: Mark Farthing; SC - COLLINS CAROLINE
Cc: Hudgins, Kathrine
Subject: 2022-000336 - State v. Ronzell Bilah Olds - Petition for Rehearing
Date: Thursday, October 23, 2025 2:48:00 PM
Attachments: 2022-000336 - State v. Ronzell Bilah Olds - Petition for Rehearing.pdf

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Mr. Farthing,

Please find attached for service the Petition for Rehearing for Ronzell Bilah Olds' appeal which will be filed today with the Court of Appeals.

Thank you,

Chris Stock
Administrative Coordinator
Commission on Indigent Defense
Appellate Division
(803) 734-1330