

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2019-KA-00603-SCT

ROBERT ROY CASEY a/k/a ROBERT CASEY

v.

STATE OF MISSISSIPPI

DATE OF JUDGMENT:	02/08/2019
TRIAL JUDGE:	HON. DAL WILLIAMSON
TRIAL COURT ATTORNEYS:	KRISTEN MARTIN DENNIS BISNETTE C. GRANT HEDGEPEETH
COURT FROM WHICH APPEALED:	JONES COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	OFFICE OF STATE PUBLIC DEFENDER BY: MOLLIE M. McMILLIN GEORGE T. HOLMES
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: ASHLEY SULSER
DISTRICT ATTORNEY:	ANTHONY J. BUCKLEY
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	AFFIRMED - 09/17/2020
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

BEFORE KITCHENS, P.J., MAXWELL AND CHAMBERLIN, JJ.

CHAMBERLIN, JUSTICE, FOR THE COURT:

¶1. A Jones County jury convicted Robert Casey of possession of cocaine in violation of Mississippi Code Section 41-29-139 (Rev. 2018). The Circuit Court of the Second Judicial District of Jones County sentenced Casey to serve twenty years in the custody of the Mississippi Department of Corrections, with four years suspended pending completion of four years' post-release supervision. Casey appeals to this Court, arguing that the trial court

erred by declining to suppress cocaine found on his person and that his constitutional and statutory rights to a speedy trial were violated. Because Casey’s arguments are without merit, we affirm his conviction and sentence.

FACTS AND PROCEDURAL HISTORY

¶2. In the late evening hours of September 8, 2012, Deputy John Putnam was working as an interdiction officer on Interstate 59 in Jones County, Mississippi. Putnam testified that he was sitting stationary on Interstate 59 when he observed a vehicle traveling faster than other vehicles he had observed that night. Putnam then pulled out and got behind the vehicle to investigate his suspicions of speeding. While following the vehicle, Putnam ran the vehicle’s tag and “paced” the vehicle to gauge its speed. Through pacing, Putnam determined that the vehicle was speeding, and he stopped the vehicle for exceeding the posted speed limit in violation of Mississippi Code Section 63-3-501 (Rev. 2013).

¶3. Three persons were inside the vehicle—Casey, Nicholas Durr and Jenelle Denson. Durr, the driver, produced a Georgia license, an insurance card and the vehicle’s registration. As Putnam reviewed the information, he engaged Durr in conversation. Putnam testified that Durr appeared nervous, avoided eye contact, stuttered and was shaking and belligerent. In light of Durr’s behavior, Putnam asked Durr to exit the vehicle.

¶4. While outside the car, Putnam conducted a *Terry*¹ pat-down of Durr. He found no weapons and inquired further into Durr’s travel plans. According to Putnam, Durr explained that he was driving Casey’s vehicle, that they were taking Casey’s mother-in-law, Denson,

¹*Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

to Hattiesburg, Mississippi, and that they were planning to return to Georgia afterward. Putnam then asked Durr how long he and Casey had known each other, and Durr explained that he and Casey had grown up together in Gulfport, Mississippi. Putnam also asked Durr whether he had ever been arrested, and Durr stated that he had prior weapons charges and felony-drug-trafficking charges. Putnam placed Durr in the front seat of Putnam's patrol car unrestrained while Putnam returned to the vehicle to speak with Casey.

¶5. Putnam testified that when he returned to the vehicle and began to speak with Casey, Casey was shaking and could barely speak. Contrary to Durr's statements to Putnam moments earlier, Casey told Putnam that they would be staying in Hattiesburg and that Casey had not known Durr that long. Based on Casey's behavior, Casey and Durr's contradicting statements and Durr's disclosure that Durr had prior weapons charges, Putnam became suspicious and concerned for his safety. Putnam then asked Casey to exit the vehicle.

¶6. While at the rear of the vehicle, Putnam attempted to pat Casey down for weapons. When Putnam began the pat-down, Casey suddenly attempted to put his hands down his pants. This prompted Putnam to place Casey in handcuffs for safety purposes, and Putnam radioed for assistance. Putnam then resumed the pat-down and felt what he believed to be a firearm near the inside region of Casey's thigh. Putnam described the object as being hard as wood. Just as Putnam felt this object, Casey resisted. Putnam placed Casey on the hood of the patrol car and restrained him until an additional deputy arrived. During this time, Putnam attempted to remove what he thought was a gun from Casey's pants, and Casey continued to resist. Once another deputy arrived, two objects were retrieved from Casey's

pants—a “vacuum-sealed, real hard” green leafy substance and a “compressed white powdery substance.” Casey was placed under arrest and charged with possession of cocaine with the intent to distribute.

¶7. Two days after Casey’s arrest on September 8, 2012, he was released on bail, and he returned to Georgia. As a condition of his bond, Casey was required to report to the Jones County Adult Detention Facility in Ellisville, Mississippi, on the first Tuesday of every other month. But according to Casey’s defense counsel, Casey never returned to Mississippi.

¶8. On May 9, 2013, the grand jury returned a one-count indictment against Casey for possession of a controlled substance with the intent to distribute in violation of Mississippi Code Section 41-29-139. A *capias* was issued that day, and a copy of the *capias* was filed approximately two months later with an annotation indicating that the *capias* could not be executed and that Casey’s bondman had been contacted. An alias *capias* was *then* issued on July 19, 2013, but it was not executed until March 21, 2018.

¶9. On May 13, 2014, Casey, through counsel, filed a motion to suppress the cocaine found on Casey’s person. A hearing on the motion to suppress was set to take place on May 20, 2014. But the hearing was cancelled by defense counsel due to a conflict with defense counsel’s son’s graduation. After the hearing was cancelled, the record fails to reflect any other activity in the case until March 2018.

¶10. In March 2018, Casey was arrested in Harrison County, Mississippi, on unrelated charges. On March 19, 2018, the trial judge entered an order to transport Casey to Jones County so that Casey could be served with his indictment and arraigned. Two days later,

Casey was served with his indictment, was arraigned and trial was set for September 6, 2018.

The day after Casey was arraigned, he was released on bond awaiting trial.

¶11. On August 28, 2018, Casey's attorney filed a notice of hearing on Casey's motion to suppress. The trial court held a hearing on the motion one week later, on September 4, 2018. That same day, the State requested that trial be continued because the State's expert witness from the crime lab would be unavailable to testify on September 6, 2018. Casey filed a formal objection to the State's request for a continuance, arguing that he would be severely prejudiced by a continuation because Casey had "traveled from Atlanta, GA and has been in town since September 4 to prepare for this trial." Casey maintained that he was prepared and ready to go to trial on September 6, 2018.

¶12. The trial court held a hearing on September 6, 2018, and heard oral arguments regarding the State's request for a continuance and for Casey's objection. At the conclusion of the hearing, the trial court noted two reasons for granting a continuance. First, the trial court noted that all the issues that were argued just two days earlier in Casey's motion to suppress had not yet been resolved. Second, the trial court found that the State established good cause based on the unavailability of its expert witness. On September 18, 2018, the trial court entered an order of continuance and reset the trial date for January 30, 2019.

¶13. On January 22, 2019 Casey filed a motion to dismiss for lack of a speedy trial. Casey's jury trial began on January 30, 2019. At trial, Deputy Putnam testified, and a video of the traffic stop was admitted into evidence and played for the jury. Patti Firment, the evidence clerk for Jones County at the time of Casey's arrest, testified for the State regarding

the chain of custody of the cocaine. Firment also explained that the cocaine was destroyed by the Mississippi Bureau of Narcotics in 2016. Additionally, Jamie Johnson from the state forensics laboratory testified as an expert for the State. Johnson explained that her laboratory testing confirmed that the substance was cocaine.

¶14. The following day the jury found Casey guilty of the lesser-included offense of possession of cocaine in violation of Mississippi Code Section 41-29-139 (Rev. 2018). The trial court sentenced Casey to serve twenty years in the custody of the Mississippi Department of Corrections, with four years suspended pending completion of four years post-release supervision. After Casey’s posttrial motions were denied, Casey timely appealed to this Court.

¶15. Casey raises three primary arguments on appeal. First Casey asserts that the trial court erred by declining to suppress the cocaine found on his person. Next, Casey argues that his constitutional right to a speed trial was violated. Finally, Casey argues that his statutory right to a trial within 270 days of his arraignment was also violated. Because Casey’s arguments are without merit, we affirm Casey’s conviction and sentence.

STANDARD OF REVIEW

¶16. This Court employs a mixed standard of review to Fourth Amendment issues. *Martin v. State*, 240 So. 3d 1047, 1050 (Miss. 2017). “Whether probable cause or reasonable suspicion exists is subject to a de novo review.” *Id.* (internal quotation mark omitted) (quoting *Eaddy v. State*, 63 So. 3d 1209, 1212 (Miss. 2011)). This de novo review, however, is limited by the trial court’s determination of “historical facts reviewed under the substantial

evidence and clearly erroneous standards.” *Id.* (internal quotation marks omitted) (quoting *Eaddy*, 63 So. 3d at 1212). “On appeal, the trial judge’s [factual] findings can only be reversed for manifest error or if they are against the overwhelming weight of the evidence.” *Walker v. State*, 913 So. 2d 198, 224-25 (Miss. 2005) (citing *Hunt v. State*, 687 So. 2d 1154, 1160 (Miss. 1996)).

¶17. “The standard of review of a speedy-trial claim encompasses a review of the facts and questions whether the trial delay arose from good cause.” *Courtney v. State*, 275 So. 3d 1032, 1037 (Miss. 2019) (citing *DeLoach v. State*, 722 So. 2d 512, 516 (Miss. 1998)). A trial court’s finding of good cause for the delay will be upheld on appeal if its supported by substantial, credible evidence. *Id.* (citing *Folk v. State*, 576 So. 2d 1243, 1247 (Miss. 1991)).

DISCUSSION

I. Whether the trial court erred by denying Casey’s motion to suppress.

¶18. Before trial, Casey moved to exclude the cocaine found on his person, arguing, inter alia, that Deputy Putnam had lacked probable cause to conduct the traffic stop and that Putnam had lacked reasonable suspicion to pat Casey down for weapons. Casey also argued that the scope of Putnam’s pat down exceeded what is allowed under *Terry*. On appeal, Casey reasserts these same arguments and contends that Putnam’s action violated his Fourth Amendment right to be free from an illegal search and seizure and, therefore, that the trial court erred by failing to suppress the cocaine found on his person.

¶19. The trial court held a hearing on Casey’s motion to suppress during which a video of the traffic stop was played for the trial court and the trial court heard testimony from Deputy

Putnam. Putnam testified that he initially observed the vehicle traveling faster than others he had observed that night. Putnam explained that he paced the vehicle and conducted the traffic stop after determining that the vehicle was exceeding the posted speed limit. Putnam also testified about the facts leading up to the pat-down of Casey. Putnam explained that he became suspicious and concerned for his safety based on Durr's and Casey's nervous behavior, based on Casey's two statements that contradicted Durr's and based on Durr's disclosing that he had prior felony-drug-trafficking and weapons charges. Casey did not offer any evidence or testimony to contradict Putnam.

¶20. The trial court found that Deputy Putnam was credible and that Putnam's testimony regarding the vehicle's exceeding the speed limit was substantiated by GPS data depicted on the patrol car's camera system as Putnam followed the vehicle. The trial court also found that Putnam had articulated sufficient factual reasons to justify the pat-down of Casey. The trial court found, therefore, that the initial stop had been lawful in light of Putnam's reasonable belief that the vehicle was speeding and that the pat-down of Casey had been reasonable. Accordingly, the trial court denied Casey's motion to suppress. Because the trial court's factual findings are supported by sufficient evidence and not clearly erroneous, we conclude that these findings were not manifest error.

¶21. In light of these factual findings by the trial court, we find that de novo review shows that Putnam had probable cause to stop the vehicle. Well-settled Mississippi law provides that "when a police officer personally observes a driver commit what he reasonably believes is a traffic violation, he then has probable cause to stop the vehicle." *Martin*, 240 So. 3d at

1052. “On the other hand, if it is clear that what the police observed did not constitute a violation of the cited traffic law, there is no ‘objective basis’ for the stop, and the stop is illegal.” *Id.* (quoting *Moore v. State*, 986 So. 2d 928, 933 (Miss. 2008)). Here, a valid and objective basis existed for Putnam to stop the vehicle. Putnam reasonably believed that the vehicle was speeding, and record evidence supports that belief. Therefore, Casey’s argument that Putnam lacked probable cause to stop the vehicle is without merit.

¶22. Additionally, a de novo review shows that Putnam had the necessary reasonable suspicion to pat Casey down for weapons. To justify a pat-down for weapons “[t]he officer need not be absolutely certain that the individual is armed; the issue is whether a reasonably prudent man in the circumstances would be warranted in the belief that his safety or that of others was in danger.” *Cole v. State*, 242 So. 3d 31, 42 (Miss. 2018) (internal quotation marks omitted) (quoting *Terry*, 392 U.S. at 27). Here, Deputy Putnam based his suspicions and safety concerns on Durr’s and Casey’s nervous behavior, Casey’s two statements that contradicted Durr’s and Durr’s disclosure that he had prior felony-drug-trafficking and weapons charges. Based on these facts, we find that a reasonably prudent officer would be justified in patting Casey down for weapons.

¶23. Casey also asserts that Putnam exceeded the permissible scope of a *Terry* pat-down when Putnam retrieved an object from Casey’s crotch area that did not resemble a firearm or obvious contraband. In *Gales v. State*, this Court stated:

The rationale underlying the *Terry* stop is the protection of the officer. *Ellis v. State*, 573 So. 2d 724, 725 (Miss. 1990). To that effect, the U.S. Supreme Court has said that the search “must therefore be confined in scope to an intrusion reasonably designed to discover guns, knives, clubs, or other hidden

instruments for the assault of the police officer.” *Terry*, 392 U.S. at 29, 88 S. Ct. 1868. “When an object is soft or does not reasonably resemble a weapon, the *Terry* analysis does not justify removing it from the suspect’s clothing and searching it.” *Ellis*, 573 So. 2d at 725 (citing 3 W. LaFare, *Search and Seizure* § 9.4(b) (2d ed. 1987)).

Gales v. State, 153 So. 3d 632, 639 (Miss. 2014).

¶24. Casey’s argument seemingly ignores the circumstances that led to the retrieval of the drugs. First, as Deputy Putnam began his first attempt at a weapons pat-down, Casey suddenly took his hand off the back windshield and reached into his pants pocket. This action required Putnam to place Casey in handcuffs so that Putnam could attempt to complete the pat-down in a safer manner. Putnam then continued with the pat-down, and when he patted Casey’s right thigh for a weapon, Putnam felt an object that he thought may have been a weapon. But Putnam was not able to dispel his suspicions of a weapon because just as Putnam felt what he believed to be a weapon, Casey resisted and attempted to pull away. Indeed, video of the traffic stop irrefutably shows Casey’s evasiveness.

¶25. In one case, the Mississippi Court of Appeals noted that the defendant’s evasive behavior during a weapons pat-down justified a more intrusive search of the defendant’s jacket that ultimately led to the discovery of cocaine. *State v. White*, 918 So. 2d 763, 766 (Miss. Ct. App. 2005). We find the Court of Appeals’ reasoning persuasive and analogous to the facts of this case. Additionally, Putnam’s belief that the object may have been a weapon was not unreasonable. Putnam did not describe the object as small and soft; rather, Putnam felt an object that he said was as hard as wood hidden next to Casey’s right thigh. Therefore, we find that Putnam’s actions were justified in light of Casey’s resistance and the

reasonable belief that the hard, compressed object may have been a weapon.

II. Whether Casey's constitutional and statutory rights to a speedy trial were violated.

¶26. Casey asserts that the State violated his constitutional and statutory right to a speedy trial. “An analysis of [Casey’s] constitutional right to a speedy trial must be made apart from his statutory right.” *Franklin v. State*, 136 So. 3d 1021, 1032 (Miss. 2014) (citing *Simmons v. State*, 678 So. 2d 683, 686 (Miss. 1996)).

A. Casey's Constitutional Right to a Speedy Trial

¶27. Criminal defendants are guaranteed the right to a speedy trial by the Sixth Amendment to the United States Constitution. *Hurst v. State*, 195 So. 3d 736, 741 (Miss. 2016) (citing *Barker v. Wingo*, 407 U.S. 514, 515, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972)). This Court applies the four-factor balancing test from *Barker*, 407 U.S. at 530, to determine whether the constitutional right to a speedy trial has been violated. *Courtney*, 275 So. 3d at 1041. The *Barker* factors include “(1) the length of the delay; (2) the reasons for the delay; (3) the defendant’s assertion of his right to a speedy trial; and (4) prejudice to the defendant.” *Id.* (citing *Barker*, 407 U.S. at 530).

1. The Length of Delay

¶28. Casey’s right to a speedy trial attached when he was arrested. *Franklin*, 136 So. 3d at 1033 (citing *Simmons*, 678 So. 2d at 686). Casey was arrested on September 8, 2012, and his trial began on January 30, 2019. More than seventy-six months elapsed between Casey’s arrest and his trial. “A delay of eight months or more triggers a presumption of prejudice that requires a full analysis under *Barker*.” *Id.* (citing *Johnson v. State*, 68 So. 3d 1239, 1242

(Miss. 2011)). A presumptively prejudicial delay, however, does not mean that the defendant suffered actual prejudice. *Id.* (quoting *Johnson*, 68 So. 3d at 1242). Instead, this Court determines whether actual prejudice to the defendant exists under the fourth factor in the *Barker* analysis. *Id.* (quoting *Johnson*, 68 So. 3d at 1242). Because the delay between Casey’s arrest and his trial was far beyond eight months, this factor weighs in Casey’s favor, and the burden of persuasion shifts to the State to show good cause for the delay. *Id.* (citing *Johnson*, 68 So. 3d at 1242).

2. *The Reason for the Delay*

¶29. Under this second *Barker* factor, “[d]ifferent reasons for delay are assigned different weights.” *Hurst*, 195 So. 3d at 741 (internal quotation marks omitted) (quoting *Bateman v. State*, 125 So. 3d 616, 629 (Miss. 2013)). Deliberate delays designed to inhibit the defense are weighted heavily against the State. *Id.* (citing *Bateman*, 125 So. 3d at 629). “A more neutral reason such as negligence . . . should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant.” *Barker*, 407 U.S. at 531. A “delay caused by the absence of the State’s key witness . . . should not be weighed against the State” *Franklin*, 136 So. 3d at 1034 (citing *Murray v. State*, 967 So. 2d 1222, 1230 (Miss. 2007)). Finally, “[d]elays caused by the defense . . . will toll the running of the speedy trial clock” *Hersick v. State*, 904 So. 2d 116, 121 (Miss. 2004) (citing *Wiley v. State*, 582 So. 2d 1008, 1011 (Miss. 1991)).

¶30. The trial court found that this factor weighed equally against Casey and the State; if

it weighed against the State at all, the trial court found, the weight was extremely light. The trial court attributed part of the delay to Casey for two reasons: (1) Casey's failure to report to the Jones County Adult Detention Center every other month as required by the conditions of Casey's bond and (2) Casey's nearly four-year-and-four-month delay in pursuing his motion to suppress, on which Casey ultimately requested a hearing one week before his original trial date. The trial court attributed part of the delay to the State because the State bears the ultimate responsibility to bring the defendant to trial. The trial court did not weigh this factor heavily against the State because there was no indication of any intentional delay by the State.

¶31. On appeal, Casey focuses on "the delay of over five and a half years between his arrest and arraignment" and argues that this delay "is attributable to the State alone." We find this argument unpersuasive. Casey's argument ignores the fact that Casey clearly contributed to the State's inability to serve him with the indictment. Had Casey abided by the conditions of his bond and not effectively absconded, the State would certainly have had the opportunity to serve Casey with the indictment when he was required to present himself at the Jones County Detention Facility every other month.² Casey was not under an obligation to bring himself to trial, but Casey was under a clear obligation to report back to Jones County as a condition of his bond, and his failure to do so contributed to the delay of his trial. Moreover, the *capias* issued after Casey's indictment evidences that the State did

²Under Mississippi Code Section 99-5-1 (Rev. 2015), Casey would have presumably also been required to appear on the first day of each term of the Circuit Court of Jones County following his release on bail.

attempt to serve the indictment on Casey but that it was unable to do so and that it contacted Casey's bondsman. We find that this factor does not weigh in Casey's favor and that to find otherwise would effectively reward Casey for violating the conditions of his bond.

3. *The Defendant's Assertion of His Right*

¶32. Casey claims that he asserted his right to a speedy trial when he filed his motion to dismiss for lack of a speedy trial on January 22, 2019—eight days before his trial began. But “[t]his Court has established that asserting the right to a speedy trial and filing for dismissal for violating that same right are not one and the same.” *Franklin*, 136 So. 3d at 1034 (citing *Bailey v. State*, 78 So. 3d 308, 323 (Miss. 2012)); see also *Hurst*, 195 So. 3d at 742 (citing *Perry v. State*, 637 So. 2d 871, 875 (Miss. 1994)); *Newell v. State*, 175 So. 3d 1260, 1271 (citing *Perry*, 637 So. 2d at 875). Additionally, “[t]he Court has held that the factor weighs against a defendant who waits a significant amount of time after arrest to demand a speedy trial.” *Courtney*, 275 So. 3d at 1043 (citing *Bateman*, 125 So. 3d at 630). Because Casey's motion to dismiss did not constitute a demand for a speedy trial and because Casey's alleged demand was filed more than six years and four months after Casey's arrest, we find that this factor weighs against Casey.

4. *Prejudice to the Defendant*

¶33. “The final prong of the *Barker* analysis—prejudice to the defendant—has two aspects: (1) actual prejudice to the accused in defending his case, and (2) interference with the defendant's liberty.” *Brengettcy v. State*, 794 So. 2d 987, 994 (Miss. 2001) (citing *Perry*, 637 So. 2d at 876). This Court utilizes the three considerations articulated by the United

States Supreme Court in *Barker* to determine whether the defendant has been prejudiced by the delay: “(1) preventing ‘oppressive pretrial incarceration’; (2) minimizing anxiety and concern of the accused; and (3) limiting the possibility that the defense will be impaired.” *Id.* (quoting *Barker*, 407 U.S. at 532). “[S]ince the defendant is clearly in the best position to show prejudice under the ‘prejudice’ prong, the burden remains with him . . .” *Johnson*, 68 So. 3d at 1245.

¶34. On appeal, Casey does not argue that the delay in this case caused him oppressive pretrial incarceration or that the delay caused him to suffer any anxiety or concern. Instead, Casey argues that his defense was impaired because he lost contact with Durr during the delay and his mother-in-law, who was also in the car, developed dementia during the delay.

¶35. The trial court relied on this Court’s precedent in *Manix v. State*, 895 So. 2d 167, 177 (Miss. 2005), and found that Casey’s allegations of prejudice were insufficient to establish actual prejudice. Specifically, the trial court noted that “no evidence was presented by the Defendant at the hearing on his efforts to locate Mr. Durr, and no evidence was presented by the Defendant as to the ‘lady in her mid-80’s’ developing dementia.” Accordingly, the trial court declined to weigh this factor in favor of Casey.

¶36. We agree with the trial court and find that Casey failed to show that any actual prejudice resulted from the delay. In *Manix*, this Court declined to find actual prejudice and ultimately weighed this factor against the defendant because the defendant provided nothing more than mere allegations of his inability to locate an exculpatory witness. *Manix*, 895 So. 2d at 177. Like the defendant in *Manix*, Casey failed to offer any proof to substantiate his

allegations of prejudice. Casey did not offer any documentation or testimony; instead, he relied solely on the allegations within his motion to dismiss. Therefore, we find that this factor weighs against Casey.

¶37. On appeal, Casey also argues that his defense was further impaired because he lost the opportunity to claim that the cocaine was, in fact, not cocaine because the evidence was destroyed before trial. Casey never presented this argument to the trial court. Furthermore, Casey never made any attempt to preserve the evidence so that he could have it tested; instead, Casey only attempted to have the cocaine suppressed. “The well-recognized rule is that a trial court will not be put in error on appeal for a matter not presented to it for decision.” *Moffett v. State*, 49 So. 3d 1073, 1088 (Miss. 2010) (internal quotation marks omitted) (quoting *Mills v. Nichols*, 467 So. 2d 924, 931 (Miss. 1985)). Thus, we find that Casey waived this argument by failing to present it to the trial court.

¶38. Upon weighing all the *Barker* factors, we find that Casey’s constitutional right to a speedy trial was not violated. As this Court has previously explained, “[a] close reading of *Barker* reveals that even the United States Supreme Court found that the absence of serious prejudice (coupled with the fact that the defendant did not want a speedy trial) *outweighed* the other two prongs[.]” *Johnson*, 68 So. 3d at 1246 (citing *Barker*, 407 U.S. at 534). Therefore, we find that Casey’s argument is without merit.

B. Casey’s Statutory Right to a Speedy Trial

¶39. Casey, for the first time on appeal, also asserts that his statutory right to a speedy trial was violated because 316 days elapsed between his arraignment and his trial. Because Casey

failed to present this argument to the trial court at any point, the State argues that Casey waived his right to complain about this alleged violation on appeal.

¶40. This Court has held that criminal defendants waive their statutory speedy-trial claim by failing to raise it with the trial court. *Havard v. State*, 94 So. 3d 229, 236 (Miss. 2012) (citing *McBride v. State*, 61 So. 3d 138, 148 (Miss. 2011)). Reviewing the record here, Casey only claimed that his constitutional right to a speedy trial was violated. Accordingly, we find that Casey has waived appellate review of his alleged statutory speedy-trial violation.

¶41. Procedural bar notwithstanding, we further find this issue to be without merit. Under Mississippi Code Section 99-17-1 (Rev. 2015), Mississippi provides the right to a speedy trial statutorily. That section provides, in its entirety, “[u]nless good cause be shown, and a continuance duly granted by the court, all offenses for which indictments are presented to the court shall be tried no later than two hundred seventy (270) days after the accused has been arraigned.” Miss. Code Ann. § 99-17-1 (Rev. 2015).

¶42. This Court has held that “the absence of the State’s key witness . . . is deemed a good-cause reason for delay under *Barker v. Wingo*.” *Franklin*, 136 So. 3d at 1034 (citing *Murray*, 967 So. 2d at 1230). Moreover, “[c]ontinuances granted to the State where the State has demonstrated good cause, are not counted against the State.” *Newell*, 175 So. 3d at 1270 (internal quotation marks omitted) (quoting *Birkley v. State*, 750 So. 2d 1245, 1250 (Miss. 1999)).

¶43. The record here reflects that Casey’s trial was originally set for September 6, 2018—169 days after Casey’s arraignment. The record further reflects that the trial court

granted a continuance to the State “on the grounds that an essential witness to the State, Jamie Johnson with the MS crime Lab, is unable to testify on the trial date due to conflicting schedules” As a result, Casey’s trial was continued from September 6, 2018, to January 30, 2019—a period of 147 days.

¶44. Because the State demonstrated good cause for the continuance and because a continuance was duly granted by the trial court, the 270-day period under Section 99-17-1 was tolled during the 147-day continuance. A deduction of that period from the total time between Casey’s arraignment and his trial reveals that Casey was tried 169 days after his arraignment. This delay is well below the 270 days mandated by Section 99-17-1. Therefore we find that Casey’s statutory right to a speedy trial was not violated.

CONCLUSION

¶45. Because Deputy Putnam’s action were permissible under the Fourth Amendment and because Casey’s constitutional and statutory rights to a speedy trial were not violated, we affirm Casey’s conviction and sentence.

¶46. **AFFIRMED.**

RANDOLPH, C.J., KITCHENS AND KING, P.JJ., COLEMAN, MAXWELL, BEAM, ISHEE AND GRIFFIS, JJ., CONCUR.