

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2025-KA-00634-COA

**LONNIE LUZELL COLEMAN A/K/A LONNIE
COLEMAN**

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF JUDGMENT:	04/17/2025
TRIAL JUDGE:	HON. JAMES D. BELL
COURT FROM WHICH APPEALED:	HINDS COUNTY CIRCUIT COURT, FIRST JUDICIAL DISTRICT
ATTORNEY FOR APPELLANT:	OFFICE OF STATE PUBLIC DEFENDER BY: JOSEPH SCOTT HEMLEBEN
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: BARBARA WAKELAND BYRD
DISTRICT ATTORNEY:	JODY E. OWENS
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	REMANDED - 10/13/2026
MOTION FOR REHEARING FILED:	

BEFORE BARNES, C.J., McDONALD AND EMFINGER, JJ.

EMFINGER, J., FOR THE COURT:

¶1. Lonnie Coleman was convicted of two counts of human trafficking in violation of Mississippi Code Annotated section 97-3-54.1 (Rev. 2020) and one count of possession with the intent to transfer a controlled substance in violation of Mississippi Code Annotated section 41-29-139(a)(1) (Rev. 2020). The trial court sentenced Coleman as a habitual offender, pursuant to Mississippi Code Annotated section 99-19-81 (Rev. 2020), to serve consecutive terms of twenty years in the custody of the Mississippi Department of Corrections (MDOC) on each count of human trafficking and eight years in the custody of

the MDOC for the possession conviction. Coleman raises eight issues on appeal, including that his constitutional and statutory rights to a speedy trial were violated.¹

FACTS AND PROCEDURAL HISTORY

¶2. Coleman was arrested on November 3, 2021, as a result of a sting operation at the Quality Inn in Jackson, Mississippi. Coleman had his initial appearance on November 9, 2021, and was bound over to the grand jury on November 29, 2021. On June 30, 2022, an indictment was filed charging Coleman with three counts of human trafficking, one count of sexual battery, possession with the intent to transfer a controlled substance, and tampering with a witness. Coleman was indicted as a habitual offender. There are two capias returns in the record. One shows that Coleman was served with the indictment while he was in custody on July 1, 2022. The second return indicates that Coleman was served while he was in custody on July 8, 2022. An order appointing Gail Lowery as Coleman's attorney was entered on July 12, 2022. On July 13, 2022, Lowery filed a motion for discovery, a request for a plea offer, and a demand for a speedy trial. Two other orders were entered on July 13, 2022, and November 3, 2022, appointing different attorneys from the Hinds County Public Defender's Office to serve as Coleman's lead counsel.

¶3. On March 10, 2023, Coleman filed his first pro se motion for a speedy trial. In his motion, Coleman requested an evidentiary hearing. Coleman was finally arraigned on June

¹ Because we are remanding this case to the circuit court for the limited purpose of conducting a hearing on Coleman's motions to dismiss the indictment based upon the alleged speedy trial violation, we will address only those facts necessary to our ruling on that issue. All other issues remain before this Court. After the circuit court addresses Coleman's motions to dismiss the indictment as provided herein, we will resume our consideration of this appeal.

14, 2023, approximately 348 days after being served with the indictment. Pursuant to the arraignment and scheduling order, Coleman's trial date was set for November 6, 2023. The State filed its first motion for a continuance on October 26, 2023, on the basis of a scheduling conflict. A continuance order was entered on December 14, 2023, setting Coleman's trial for "the next term of court." Coleman filed his second pro se "Motion to Dismiss Charges for Failure to Provide a Fast and Speedy Trial" on December 18, 2023. On March 1, 2024, the State filed another form motion and proposed order for a continuance in which the State requested a continuance because the assigned prosecutor, a prosecution witness, and a police witness were not available. While the form motion/order had a place to write or type in a new trial date, that space was left blank. Coleman filed his third pro se motion to dismiss for denial of a speedy trial on March 6, 2024. On May 29, 2024, the court entered an order, on its own motion, resetting Coleman's trial for August 5, 2024.

¶4. On June 18, 2024, Coleman filed a petition for a writ of mandamus with the supreme court requesting an order requiring the trial court to rule on his motions to dismiss the indictment. The supreme court sent notice of this filing to Judge Gibbs and required that she respond to the petition within fourteen days. Judge Gibbs' response was filed with the supreme court on August 28, 2024. In the response, the trial judge advised the supreme court that Coleman's case was set for trial on October 7, 2024, and that all motions that had been properly noticed were set for hearing on September 13, 2024. As a result of Judge Gibbs' response, on September 3, 2024, the Mississippi Supreme Court entered an order dismissing Coleman's petition for a writ of mandamus.

¶5. While Coleman’s petition was pending before the supreme court, an “Amended Order of Continuance” was entered by the trial court on August 9, 2024. The order noted that the joint motion for a continuance stated that both the assigned prosecutor and defense counsel were not ready for trial. Coleman’s trial was reset for October 7, 2024. On September 10, 2024, Coleman sent a handwritten letter to the circuit court judge, which was filed by the circuit clerk, requesting relief because his motions still had not been addressed and again asking for a speedy trial.

¶6. On October 10, 2024, the circuit court, *sua sponte*, issued another amended order of continuance stating that Judge Gibbs was in trial on another case. Coleman’s trial was reset for April 7, 2025. In response to another continuance, on October 22, 2024, Coleman filed his second petition for a writ of mandamus with the supreme court. On November 20, 2024, the supreme court again noticed Judge Gibbs of the filing and requested a response within fourteen days. Judge Gibbs filed her response on December 6, 2024, and informed the supreme court that Coleman’s trial had been reset for April 7, 2025. She also advised that the trial had been reset four times for what she found to be good cause. She stated that the delay was due to a heavy case load caused by COVID-19, when no jury trials were held for more than one year. She noted that a pre-trial conference had been set for March 13, 2025. On February 5, 2025, an en banc order was issued by the supreme court finding that Coleman’s motions had not been ruled upon by the circuit court and required the circuit court to enter rulings on the motions within thirty days of the order.

¶7. In response to the supreme court’s order, on February 14, 2025, the circuit court

entered a “Ruling on Speedy Trial Motions.” This order was entered without the circuit court conducting a hearing on Coleman’s multiple motions. In this order, Judge Gibbs noted that due to the volume of cases and motions filed on any given day, the trial court does not rule on a motion until it is noticed for hearing and the opposite party has an opportunity to respond to the motion. Judge Gibbs also noted that although Coleman had continuously been represented by counsel, none of his motions had been set for hearing. Nevertheless, Judge Gibbs stated that she would address the motions as directed. The order went on to describe the backlog in Hinds County Circuit Court due to COVID-19 and that no jury trials had been conducted for almost two years. The judge noted that as a result of the high number of cases now set for trial each week, fewer cases were being resolved by negotiated guilty pleas compared to the pre-COVID-19 results. Judge Gibbs noted that while the supreme court had provided assistance by appointing senior status judges to assist with the backlog, the limited number of prosecutors, courtrooms, and court reporters hampered progress. In ruling on Coleman’s various motions, Judge Gibbs granted his requests for a speedy trial but denied his requests for dismissal of the indictment for violating his right to a speedy trial. Judge Gibbs addressed each motion for a continuance and found that good cause existed for each continuance granted. However, the trial court failed to reference or discuss the *Barker* factors within its order. *See infra* ¶9.

¶8. On March 31, 2025, Coleman’s newly appointed counsel filed a motion for a continuance due to his recent assignment to the case and lack of preparation time. A hearing on the motion was conducted on that same day, and the transcript shows that Judge Bell

issued a bench ruling denying the motion for a continuance.² We find no written order denying Coleman’s newly appointed counsel’s motion in the appellate record. Coleman’s trial began on April 7, 2025, after which he was convicted and proceeded with this appeal.

ANALYSIS

Were Coleman’s Allegations that His Constitutional and Statutory Rights to a Speedy Trial Were Violated Properly Considered?

¶9. The first of eight issues raised by Coleman on appeal relates to the alleged violation of his right to a speedy trial. Coleman claims that nearly 1,245 days elapsed between his arrest and the first day of his trial. Further, Coleman claims that despite repeatedly asserting his right to a speedy trial, Judge Gibbs entered an order in which she failed to conduct the required balancing test in *Barker v. Wingo*, 407 U.S. 514 (1972). This test is described in *Jenkins v. State*, 947 So. 2d 270, 276 (¶13) (Miss. 2006):

The Sixth Amendment to the United States Constitution provides that “in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.” U.S. Const. amend. VI. In *Barker v. Wingo*, the United States Supreme Court articulated the standard of review for determining whether the constitutional right to a speedy trial has been violated. 407 U.S. 514, 92 S. Ct. 2182, 33 L. Ed. 2d 101; *see also Brengettcy v. State*, 794 So. 2d 987, 992 (Miss. 2001). Under the *Barker* test, courts must balance: (1) the length of the delay, (2) the reason for the delay, (3) whether the defendant asserted his right to a speedy trial, and (4) whether the defendant was prejudiced by the delay. No one factor is dispositive. *Poole v. State*, 826 So. 2d 1222, 1229-30 (Miss. 2002).

As to when the *Barker* analysis must be conducted by the trial court, this Court stated in

² Prior to Judge Bell’s bench ruling on March 31, 2025, all orders had been signed by Judge Gibbs. All orders following the March 31, 2025 bench ruling were signed by Judge Bell. Despite docket entry number 87 noting that the order denying Coleman’s motion for JNOV was signed by Judge Gibbs, the order in the record on appeal shows that it was actually signed by Judge Bell.

Sullivan v. State, 281 So. 3d 1146, 1164 (¶45) (Miss. Ct. App. 2019):

The *Barker* analysis is triggered when there is a presumptively prejudicial delay. *Id.* at 530, 92 S. Ct. 2182. Our supreme court has held that any delay exceeding eight months is presumptively prejudicial. *Smith v. State*, 550 So. 2d 406, 408 (Miss. 1989). The calculation of the time elapsed begins with the defendant's arrest, indictment, or information. *Id.* at 408. "In short, the constitutional right to a speedy trial attaches when a person has been accused." *Hersick [v. State]*, 904 So. 2d [116,] 121 (¶5) [(Miss. 2004)] (citing *Smith*, 550 So. 2d at 408). Once a delay is found to be presumptively prejudicial, the court must determine whether the delay should be charged to the State or the defendant. The burden of proof shifts to the State to show the good cause for any delay attributed to it. *Stark [v. State]*, 911 So. 2d [447,] 450 (¶6) [(Miss. 2005)].

¶10. We find that the delay in the present case was more than eight months and, therefore, presumptively prejudicial. This delay triggers the *Barker* analysis; however, Judge Gibbs did not conduct a hearing on Coleman's multiple motions to dismiss and did not provide a *Barker* analysis in her order. Rather, she entered an order without the parties having the benefit of a hearing. In *Bradshaw v. State*, 371 So. 3d 822, 834 (¶31) (Miss. Ct. App. 2023), this Court addressed a similar situation:

However, in cases where the trial court never held a hearing on the matter, our supreme court has stated:

[T]his Court has two options: (1) decide the case based on a de novo review of the record before us, if good cause for the delay is apparent, or (2) remand the case to the circuit court to allow the State to present evidence explaining the delay and to conduct a proper *Barker* analysis.

Rowsey v. State, 188 So. 3d 486, 494 (¶20) (Miss. 2015) (citing *Myers v. State*, 145 So. 3d 1143, 1151-52 (Miss. 2014)).

We cannot conduct a de novo review in the present case because neither the State nor Coleman was given the opportunity to present proof. In *Myers*, 145 So. 3d at 1151-52 (¶23),

the supreme court found:

Here, the State was never given the opportunity before the trial court to carry its burden to show good cause for the delay in bringing Myers to trial, and it cannot present new evidence on appeal to make such a showing. *See McGee v. State*, 40 So. 2d 160, 165 (Miss. 1949) (quoting *Pacific R. Co. of Mo. v. Ketchum et al.*, 101 U.S. 289, 25 L. Ed. 932 (1879)) (“We take a case on appeal as it comes to us in the record, and receive no new evidence.”). Nor can Myers present this Court with new evidence, not presented to the trial court, demonstrating prejudice resulting from the delay in his trial. *See Barker*, 407 U.S. at 532, 92 S. Ct. 2182.

¶11. Coleman contends that he was prejudiced by the death of an alleged victim during the delay. He was not given an opportunity to present proof as to how this prejudiced his defense. Further, the State was not provided an opportunity to put on proof as to the reasons for delay, especially for the period between Coleman’s arrest and arraignment. As a result, we follow the path set forth in *Hall v. State*, 984 So. 2d 278, 280 (¶¶8-10) (Miss. Ct. App. 2006):

Several times, Hall tried to get the trial court to rule on his speedy trial motions. The final time it was brought to the court’s attention, the trial court refused to entertain Hall’s motion, because it found that the motion was already argued and overruled at “last Friday’s hearing.” This ruling was on April 4. The only hearing in the record before that was Wednesday, March 30 on Hall’s motion for disclosure. At the March 30 hearing, the trial court said it would have a hearing later on the speedy trial motion. . . .

[W]e have nothing before us to suggest that there was ever a hearing on the motion to dismiss for speedy trial violation. We also note that the State has not supplemented the record, pursuant to Mississippi Rule of Appellate Procedure 10, to establish the fact that such hearing was held.

Because we have determined that Hall was not heard, we determine that it is appropriate to remand this case to the trial court for a hearing on the motion to dismiss for lack of a speedy trial. Upon the completion of the hearing, if the court denies the motion, the trial court is instructed to certify the record of the hearing together with its findings and holdings to this Court so we can adequately address the issues raised in this appeal.

¶12. Based upon our review of the law and the appellate record before us, we must remand this case to the trial court to conduct an evidentiary hearing. Upon the completion of the hearing on his speedy trial argument, if the trial court denies the motion, the court is instructed to certify the record of the hearing together with its findings and holdings to this Court so we can adequately address the issues raised by Coleman on appeal. Once the record on appeal has been supplemented with all documents and transcripts associated with the limited remand, each party shall have twenty days to simultaneously file supplemental briefs limited to the speedy trial issue.

CONCLUSION

¶13. After review of the record, the limited issue of Coleman's motions to dismiss for failure to provide him with a speedy trial is remanded to the circuit court for further proceedings consistent with this opinion.

¶14. **REMANDED.**

BARNES, C.J., CARLTON AND WILSON, P.JJ., WESTBROOKS, McDONALD, LAWRENCE, McCARTY, WEDDLE AND LASSITTER ST. PÉ, JJ., CONCUR.