

**IN THE COURT OF APPEALS 12/29/95**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 94-KA-00646 COA**

**ALMA HAYNES**

**APPELLANT**

**v.**

**STATE OF MISSISSIPPI**

**APPELLEE**

**PER CURIAM AFFIRMANCE MEMORANDUM OPINION**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND  
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. JOSEPH C. WEBSTER

COURT FROM WHICH APPEALED: COAHOMA COUNTY COUNTY COURT

ATTORNEY FOR APPELLANT:

CHARLES E. WEBSTER

ATTORNEY FOR APPELLEE:

ATTORNEY GENERAL MIKE MOORE, BY: SCOTT STUART

NATURE OF THE CASE: CRIMINAL

TRIAL COURT DISPOSITION: CONVICTED OF FOOD STAMP FRAUD AND SENTENCED  
TO 1 YEAR IN MDOC, SENTENCE SUSPENDED, PLUS RESTITUTION

BEFORE THOMAS, P.J., BARBER, AND DIAZ, JJ.

PER CURIAM:

Alma Haynes was convicted of Food Stamp Fraud in the County Court of Coahoma County. Feeling aggrieved, Haynes appeals to this Court alleging one issue: that she was deprived of a speedy trial in violation of Mississippi Code, Section 99-17-1. Finding this issue to be without merit we affirm.

Haynes was indicted on June 15, 1993. On March 23, 1994, some 279 days after arraignment, Haynes made a motion that her case be dismissed for failure to prosecute within 270 days as prescribed by Mississippi Code, Section 99-17-1. The trial court denied the motion.

In the case *sub judice* no continuance was asked for by the State or Haynes, and no continuance was given by the trial court. However, this does not necessarily mean that the case must be reversed. In *Winder v. State*, 640 So. 2d 893, 894 (Miss. 1994), like the case before us, no continuances were asked for by the parties, and no continuances for good cause were granted by the trial court. In affirming the conviction our supreme court found that "certain factors in the record tolled the statute sufficiently so that the time had not run when the motion to dismiss was heard and when trial commenced." *Id.*

Like *Winder*, there are certain factors in the record which tolled the running of the statute without a continuance order entered. The record clearly reflects, through the testimony of the circuit clerk, that the reason for the delay was the result of a congested docket. The trial court made a finding that the delay in trying Haynes as a result of the congested docket was good cause. If the trial court's finding of fact that the delay was the result of good cause is supported by substantial credible evidence, this Court will not disturb that finding. *Folk v. State*, 576 So. 2d 1243, 1247

(Miss. 1991). "A finding of good cause is a finding of ultimate fact." *Id.*

The trial court found that the reason for the delay was the result of a congested docket. It is well established that a congested docket can be considered good cause for failing to try a defendant within 270 days of the arraignment. *Adams v. State*, 583 So. 2d 165, 167 (Miss. 1991); *Williamson v. State*, 512 So. 2d 868, 877 (Miss. 1987).

**THE JUDGMENT OF THE COAHOMA COUNTY COUNTY COURT OF CONVICTION OF FOOD STAMP FRAUD AND SENTENCE OF ONE YEAR, SUSPENDED FOR GOOD BEHAVIOR, TO MAKE RESTITUTION OF \$2,604 AND TO PAY A FINE OF \$1,000 IS AFFIRMED. COSTS ARE TAXED TO COAHOMA COUNTY.**

**FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, DIAZ, KING, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.**