

**STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT**

DOCKET NO: HAN-2025-509

**STATE OF MAINE,
Appellee**

v.

**ANDERSON HAREWOOD,
Appellant**

ON APPEAL FROM THE UNIFIED CRIMINAL DOCKET

BRIEF OF APPELLEE

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STATEMENT OF FACTS AND PROCEDURAL HISTORY

On October 9, 2018, Anderson Harewood (“Harewood”) was charged by complaint with two counts of Aggravated Trafficking of Scheduled Drugs, Class A,¹ and one count of Unlawful Possession of Scheduled Drugs, Class C.² *State of Maine v. Anderson Harewood*, Unified Criminal Docket, Hancock County, Docket No. HANCD-CR-2018-1368. (A. 4). Harewood made his initial appearance on the complaint and bail was set at \$50,000.00 cash, which he posted on November 3, 2018. (A. 4-5).

On December 6, 2018, The Hancock County Grand Jury returned an indictment charging Harewood with the same offenses as charged in the complaint along with one additional count of Unlawful Trafficking of Scheduled Drugs, Class B.³ (A. 52). On December 13, 2018, the case was scheduled for arraignment on the indictment and a dispositional conference. The matter was continued because Harewood appeared without an attorney, expressing to the trial court that he intended to hire an attorney. (A.5).

On January 24, 2019, Harewood was arraigned on the indictment. From 2019 through November 18, 2023, the case was placed on trial dockets and

¹ 17-A M.R.S. §§ 1105-A(1)(A)(1), (1)(D) (2017).

² 17-A M.R.S. §§ 1107-A(1)(B)(3) (2017).

³ 17-A M.R.S. §§ 1103(1-A)(A) (2017).

removed from trial dockets for various reasons, including motions filed by Harewood, changes in defense attorneys and the Covid-19 pandemic. (A. 6-17, 73-76).

On November 1, 2023, the court set the matter for jury trial on November 20, 2023. On October 27, 2023, the State filed a motion in limine seeking permission from the trial court to allow a State chemist, other than the one who tested the drugs, to testify at the trial. (A. 82-85). On November 15, 2023, Harewood filed a motion in limine to exclude the substitute chemist's testimony. (A. 87-93).

On November 16 and 17, 2023, a hearing was held on the motions pertaining to the substitute chemist's testimony. (*Murray, J., presiding*). (A. 17). The motion court granted Harewood's motion in limine and excluded the substitute chemist's testimony. (A. 17). On November 18, 2023, the State dismissed the indictment, without prejudice, pursuant to Maine Rules of Unified Criminal Procedure, Rule 48(a), due to witness unavailability. (A.17-18). The dismissal was filed before the jury was sworn and empaneled. (A. 17-18).

On February 8, 2024, the Hancock County Grand Jury returned a three-count indictment charging Harewood with Aggravated Trafficking in Scheduled

Drugs, Class A,⁴ Unlawful Trafficking of Scheduled Drugs, Class B,⁵ and Criminal Forfeiture.⁶ *State of Maine v. Anderson Harewood*, Unified Criminal Docket, Docket No. HANCD-CR-2024-126. (A. 54). The allegations and factual basis arose out of the same facts as those in Docket Number HANCD-CR-2018-1368. (A. 19).

On February 15, 2024, Harewood was arraigned on the indictment, entering not guilty pleas to counts one and two and denial to count three. His bail was set at \$10,000.00 unsecured. A disposition conference was held on May 16, 2024. (A. 19).

On May 29, 2024, Harewood filed a motion to dismiss asserting that his rights to a speedy trial under the United States and Maine Constitutions had been violated (A. 57-68). On July 10, 2024, the State filed its opposition. (A. 69-81). A hearing on the motion to dismiss was scheduled for August 8, 2024; however, Harewood moved to continue the hearing, which was granted. (A. 20). On September 20, 2024, the hearing on Harewood's motion to dismiss was held. (*Harrigan, J., presiding*). (A. 20-21). On November 26, 2024, the motion court denied Harewood's motion to dismiss. (A. 20-21).

⁴ 17-A M.R.S. §§ 1105-A(1)(D).

⁵ 17-A M.R.S. §§ 1103(1-A)(A).

⁶ 15 M.R.S. §§ 5826.

On January 14, 2025, the matter was scheduled for trial docket call on March 3, 2025. (A. 21). The State filed its witness list on February 10, 2025. (A. 21). Docket call was held on March 3, 2025, the case was then scheduled for a status conference on April 8, 2025. (A. 21). On April 9, 2025, the case was scheduled for a Rule 11 hearing. (A. 21). The Rule 11 hearing was not held, and the case was placed back on the trial docket call for September 2, 2025. (A. 22). The matter was then scheduled for a Rule 11 hearing on September 18, 2025. (A. 22). On September 18, 2025, Harewood filed a motion to continue, which was granted. (A. 22). The case was scheduled for a Rule 11 hearing on November 5, 2025. (A. 21-22).

On November 5, 2025, Harewood entered a conditional plea of nolo contendere on count two Unlawful Trafficking in Scheduled Drugs, Class B, preserving for appellate review the denial of the motion to dismiss. (A. 22). Harewood also entered admission to the forfeiture in count three, and the State dismissed count one. (A. 22). The trial court adjudged Harewood guilty of count two and imposed a sentence of four years all suspended with three years' probation and a \$400.00 fine (*Stewart, J. presiding*). (A. 22-28). This appeal followed.

STATEMENT OF THE ISSUES

Whether the motion court erred by denying Harewood's motion to dismiss for speedy trial violation.

SUMMARY OF ARGUMENT

Harewood's Motion to Dismiss for Speedy Trial Violation was properly denied by the motion court. During the pendency of both cases, the State made a good faith effort to bring Harewood to trial. This record is devoid of evidence that the State acted in bad faith or attempted to delay the trial to gain a tactical advantage over Harewood. The trial court appropriately balanced all *Barker* factors and found that the delay in this case did not violate Article 1, Section 6 of the Maine Constitution and the United States Constitution.

ARGUMENT

I. The motion court did not err by denying Harewood's motion to dismiss for speedy trial violation.

This Court reviews a motion court's factual findings supporting the denial of a motion to dismiss for a speedy trial violation for clear error, and the court's ultimate decision to deny the motion for an abuse of discretion. *State v. Engroff*, 2025 ME 83, ¶ 25, 345 A.3d 91.

The Maine Constitution guarantees that "[i]n all criminal prosecutions, the accused shall have a right . . . to a speedy, public and impartial trial." Me. Const.

art. 1, §6. Under article 1 section 6 of the Maine Constitution, a flexible balancing test is applied to determine whether the right to a speedy trial was violated. In *Winchester v. State*, 2023 ME 23, 291 A.3d 707, the Law Court reaffirmed the four-factor balancing test set forth in *Barker v. Wingo*, 407 U.S. 514 (1972), which is relevant to a federal analysis under the Sixth Amendment. The factors considered are the length of delay, the reasons for the delay, the assertion of the right, and the prejudice to the defendant. See, *Winchester v. State*, 2023 ME 23, ¶¶ 25-31. The failure to assert the right to a speedy trial can be determinative under the Maine Constitution but not Under the United States Constitution. *Id.*

Here, the motion court appropriately applied the four *Barker* factors in keeping with the holding announced in *Winchester*.

A. The length of delay does not alone establish a violation.

The motion court used the “resume” theory adopted in *State v. Norris*, 2023 ME 60, 302 A.3d 1, to analyze the periods of delay under both docket numbers because the charges arose out of the same conduct and remained basically the same.

The Law Court has not identified a precise amount of time needed to justify consideration of the other *Barker* factors. Rather, the Law Court relies upon federal precedent that a delay of one year generally warrants weighing the

other three factors. *See, State v. Norris*, 2023 ME 60, ¶23. Although the delay may be sufficient to trigger an analysis, the mere passage of time does not establish that the defendant was prejudiced. *See, Winchester v. State*, 2023 ME 23, ¶26. The motion court correctly found that the 2095-day delay was sufficient to trigger consideration of the other *Barker* factors. (A. 38).

B. The reasons for the delay were found to be neutral, weighed against Harewood or weighed only slightly against the State.

The motion court found three different causes for the delay prior to Harewood asserting his right to a speedy trial in May 2024. First, the motion court found that some periods of delay were neutral and not attributed to Harewood or to the State: (a) October 9, 2018 through September 4, 2019, the motion court found that the case followed a typical path and was ready for trial (A.39); (b) January 6, 2020 through March 2, 2020 was considered neutral as Harewood's first attorney withdrew and the case was continued to March 2, 2020 to give Harewood time to apply for a court appointed attorney or find a new attorney (A. 40); (c) March 17, 2020 through January 5, 2021, the motion court found that no cases were able to be tried because of the Covid-19 pandemic (A. 40); (d) January 6, 2023 through January 24, 2023, the motion court found this time as neutral because Harewood did not appear for trial on January 6, 2023 and by January 24, 2023, a new attorney filed his appearance

(A. 43); (e) November 1, 2023 through November 18, 2023, the motion court found as neutral because the case was scheduled for trial beginning on November 20, 2023 (A. 45); and (f) any date after May 29, 2024 was considered neutral by the motion court because this was the date that Harewood asserted his right to a speedy trial. (A. 46).

Second, the motion court found that other periods of delay were attributed to Harewood: (a) September 4, 2019 through January 6, 2020 was attributed to Harewood because of motions' practice (A. 39-40); (b) the case was scheduled for trial on April 2, 2022 and Harewood filed a motion to continue, which was granted and the matter was rescheduled for trial on July 5, 2022 (A. 42); (c) July 22, 2022 through October 3, 2022, Harewood's attorney filed a motion to withdraw, he was appointed two different attorneys, who withdrew (A. 42); (d) On October 3, 2022, Harewood was appointed another attorney and the matter was scheduled for trial docket call on January 6, 2023 (A. 43); (e) January 24, 2023 through November 1, 2023, was attributed to Harewood because of motions' practice (A. 44-45); and (f) February 15, 2024 through May 29, 2024 was attributed to Harewood because he did not assert his right to a speedy trial (A.45).

Third, the motion court attributed delays to the State: (a) the delay from April 22, 2021 through May 24, 2021, was attributed to the State because of

scheduling issues although the court did not give it much weight (A. 42); (b) The delay from June 9, 2021 through April 4, 2022, was attributed to the State because during this time docket calls were set and then moved because dates were no longer available, but the motion court did not give this delay much weight (A. 42); and (c) the delay from November 20, 2023 through February 8, 2024 was attributed to the State, but was not found to be particularly egregious, as the new indictment was returned as soon as possible after the dismissal of the first case. (A. 45).

The motion court's findings are supported by the record and not clearly erroneous. This record does not support the assertion that the State delayed the case to gain a tactical advantage or acted in bad faith. The delay attributable to the State was found to be court-related, which supports the finding that the State did not act in bad faith. This Court is reluctant to find violations of the right to a speedy trial unless the delay is solely attributable to the State's conduct or the State acts in bad faith. *See, State v. Engroff*, 2025 ME 83, ¶34. This record also demonstrates that Harewood contributed significantly to the delay of his trial due to motions that he filed, changes in attorneys, and continuances he requested. The delays caused by Harewood are not held against the State.

Contrary to Harewood's assertions, application of the *Strunk* decision to this record is a misapplication of the Law Court's prior findings. The *Strunk* decision did not address trial delays because of a pandemic. *Strunk v. United States*, 412 U.S. 434 (1973). Rather delays in *Strunk* were attributed to the state because of understaffing and backlogged cases, over which the state had control. *Id.* The *Norris* decision settled the issue of delays due to the Covid-19 pandemic, finding the delays neutral that favored neither the defendant nor the State. *See, State v. Norris*, 2023 ME 60, ¶¶ 25-26.

C. Harewood failed to timely assert his right to a speedy trial.

Harewood contends that the motion court erred by finding that he never asserted his right to a speedy trial until May 29, 2024, when he filed his motion to dismiss. (Blue Brief 17)(A. 47). He maintains that he asserted his right to a speedy trial during the pendency of the case that was dismissed, and that any other failure to assert this right should not be weighed against him because he was barred from doing so under Maine Rules of Unified Criminal Procedure 12(b)(3). (Blue Brief 18).

Harewood's reliance on asserting his right to a speedy trial in the dismissed case is misplaced because a defendant cannot assert a right to a speedy trial on a dismissed case. *See, State v. Norris*, 2023 ME 60, ¶15; (Trial Transcript, (November 20, 2023) pages 4-8). Furthermore, while it is true that M.R.U. Crim.

P. 12(b)(3) prohibited the filing of a motion to dismiss until after the dispositional conference, that rule did not prevent Harewood from asserting his right to a speedy trial at any time following the return of the February 2024 indictment. M.R.U. Crim. P. 12(b)(3)(A).

The motion court correctly found that Harewood did not assert his speedy trial right prior to filing his motion in May 2024 or 2,055 days from the original complaint. (A. 47). This failure weighs against a finding that Harewood was genuinely concerned about his right to a speedy trial and instead suggests a strategic effort to obtain a dismissal.

D. Harewood cannot demonstrate actual prejudice.

With respect to prejudice, the “right to a speedy trial seeks to prevent: (1) undue and oppressive incarceration prior to trial; (2) the accused’s anxiety and concern accompanying public accusations, and (3) impairment of the accused’s ability to mount a defense.” *See, Winchester v. State*, 2023 ME 23, ¶30.

The motion court did not err by finding that Harewood suffered no actual prejudice. While the analysis under the Maine Constitution gives significant weight to incarceration when analyzing prejudice, *Id.*, the record demonstrates Harewood was incarcerated for 29 days and thus did not experience undue or oppressive incarceration. (A. 48).

Harewood also did not suffer from excessive anxiety and concern accompanying the public accusation. (A. 48). There is no evidence on this record that Harewood identified anything more than generalized anxiety or inconvenience. The fact that Harewood did not complain about his speedy trial rights until after the first case was dismissed and four months after indictment in the second case, suggests his anxiety and inconvenience were not a concern for him. (A. 47).

Finally, Harewood's ability to mount a defense was not impaired. While he asserts that the delay occurring after November 20, 2023, should be attributed to the State, he never suggested at the motion hearing that his ability to develop a defense was impaired due to the fading memories of witnesses, or lost evidence. *See, State v. Norris*, 2023 ME 60, ¶29. Instead, his only assertion of "impairment" was that the dismissal of the first case thwarted his defense strategy. (Blue Brief, 19-20), (A. 49-50). The record contains no evidence supporting a conclusion that the State dismissed the first case in bad faith or to thwart Harewood's defense strategy to prejudice him. Accordingly, the motion court properly found Harewood's argument unpersuasive and concluded that the passage of time had not prejudiced Harewood's ability to defend the allegations against him. (A. 49-50).

E. The Maine Rules of Unified Criminal Procedure do not require dismissal.

Rule 48(b)(1) grants discretionary authority to the motion court to dismiss a case upon a showing of unnecessary delay in bringing a defendant to trial. M.R.U. Crim. P. 48(b)(1). Rule 48(b)(1) does not establish a fixed time limit for trial. Rather, the rule requires a case-specific inquiry into whether the delay was unnecessary prosecutorial or judicial delay. The analysis undertaken by the motion court properly analyzed the *Barker* factors, considering the totality of the circumstances. Even if some delay occurred, the motion court acted within its discretion when it denied Harewood's motion because the record does not establish unnecessary delay sufficient to justify the extraordinary remedy for terminating the prosecution.

F. An Analysis under The Sixth Amendment of the United States Constitution is unnecessary.

The Law Court follows the "primacy approach," addressing the claim first under the Maine Constitution. *State v. Athayde*, 2022 ME 41 , 277 A.3d 387. The analysis under the United States Constitution only occurs if the state constitution does not settle the issue. *Id.* ¶ 20. Because the issues raised by Harewood regarding his right to a speedy trial were properly analyzed and resolved under the Maine Constitution, an analysis is unnecessary under the United States Constitution.

CONCLUSION

For the foregoing reasons, Harewood's appeal should be denied and the motion court's denial of his motion to dismiss should be affirmed.

Respectfully submitted,

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Dated: June 15, 2026

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CERTIFICATE OF SERVICE

I, Dawn Corbett, Assistant Attorney General, certify that I have sent a native PDF via email and two copies of the foregoing "BRIEF OF APPELLEE" to Harewood's attorney of record, Daniel Wentworth.

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