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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-211

Filed 3 December 2024

Franklin County, No. 19 CRS 050083

STATE OF NORTH CAROLINA

v.

TARA QUINLAN, Defendant.

Appeal by defendant from judgment entered 25 August 2023 by Judge Cynthia K. Sturges in Franklin County Superior Court. Heard in the Court of Appeals 23 October 2024.

Attorney General Joshua H. Stein, by Assistant Attorney General Hillary F. Patterson, for the State.

Law Office of Martin E. Moore, PLLC, by Martin E. Moore, for defendant-appellant.

DILLON, Chief Judge.

Defendant Tara Quinlan argues the trial court erred by denying her motion to dismiss on speedy trial grounds. We disagree and discern no error.

I. Background

Defendant went out for drinks in Raleigh on the night of 10 January 2019. In

the early morning hours on 11 January 2019, she drove her car into a ditch near Louisburg on her way back home to New Jersey, and a trooper was called to respond to the collision. Upon arrival, the trooper noticed Defendant was unsteady, smelled of alcohol, had red glassy eyes, slurred her speech, and kept repeating herself. Defendant also admitted to the trooper that she had been drinking. Defendant sat in the trooper's car while he filled out the collision report. The trooper asked Defendant to take a portable breath test. Defendant refused and fled the car, running into a field adjacent to the highway. Defendant was placed under arrest. At the sheriff's department, a breathalyzer measured her breath alcohol concentration as 0.11.

Defendant was charged with driving while impaired and failure to maintain lane control. She was tried and convicted in district court on 15 June 2021. Defendant timely appealed to superior court. In August 2023, Defendant was tried by a jury in superior court and again found guilty on both charges. She was subsequently sentenced to 11 months of incarceration. Defendant timely appealed.

II. Analysis

“The denial of a motion to dismiss on speedy trial grounds presents a constitutional question of law subject to de novo review.” *State v. Farook*, 381 N.C. 170, 178 (2022). “In reviewing the denial of a motion to dismiss for a speedy-trial violation, we review the superior court's order to determine whether the trial judge's underlying findings of fact are supported by competent evidence and whether those factual findings in turn support the judge's ultimate conclusions of law.” *State v.*

Spinks, 277 N.C. App. 554, 561 (2021) (internal citations omitted).

Criminal defendants are guaranteed the right to a speedy trial under both the Sixth Amendment of the Constitution of the United States, as applicable to the states through the Fourteenth Amendment, and Article I, Section 18 of the North Carolina Constitution. *See* U.S. Const. Amend. VI (“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial[.]”); U.S. Const. Amend. XIV; N.C. Const. art. I, § 18 (“[J]ustice shall be administered without favor, denial, or delay.”).

A delay exceeding one year generally “signal[s] the point at which courts deem the delay unreasonable enough to trigger the *Barker* calculus,” wherein we analyze factors to determine whether a defendant’s right to a speedy trial has been violated. *Farook*, 381 N.C. at 178–79 (referencing the federal speedy trial analysis devised by the Supreme Court of the United States in *Barker v. Wingo*, 407 U.S. 514 (1972)). Here, Defendant’s trial was delayed approximately two years, which triggers constitutional review pursuant to *Barker*.

Under the *Barker* analysis, we weigh the following four factors: (1) length of the delay, (2) reason for the delay, (3) the defendant’s assertion of her right to a speedy trial, and (4) prejudice to the defendant. *See Barker*, 407 U.S. at 530. *See also State v. Grooms*, 353 N.C. 50, 62 (2000) (recognizing that we employ the *Barker* analysis in reviewing speedy trial motions under the North Carolina Constitution). None of the four *Barker* factors are “either a necessary or sufficient condition” to finding a defendant was deprived of her right to a speedy trial. *Barker*, 407 U.S. at 533.

Rather, we “engage in a difficult and sensitive balancing process” of weighing these factors and other relevant circumstances. *Id.* We examine each factor below.

A. Length of Delay

First, we address the length of the delay. While the length of delay is the triggering mechanism for a full *Barker* analysis, it is also an independent factor to be considered in the analysis. *See id.*; *Farook*, 381 N.C. at 178. But “mere length of delay, standing alone, does not establish that the delay was unreasonable or prejudicial[.]” *State v. Groves*, 324 N.C. 360, 366 (1989).

The delay here was approximately two years, calculated from the time of Defendant’s appeal from her district court trial (on or about 15 June 2021) to her trial in superior court (23 August 2023). *See State v. Friend*, 219 N.C. App. 338, 344 (2012).

B. Reason for Delay

Next, we address the reasons for the delay. The trial court cited a 2003 North Carolina Supreme Court case, *State v. Spivey*, 357 N.C. 114, 119 (2003), when discussing Defendant’s burden of proof regarding the reason for delay. However, this was not the correct burden of proof, leading the trial court to incorrectly place the burden on Defendant to show that the delay was due to the prosecution’s neglect or willfulness.

Based on a more recent decision in *State v. Farook*, published in 2022, our Supreme Court instructed that a delay approaching one year “is generally recognized as long enough to ‘create a *prima facie* showing that the delay was caused by the

negligence of the prosecutor’ . . . sufficient to shift the burden of proof to the State ‘to rebut and offer explanations for the delay.’ ” 381 N.C. at 179 (quoting *State v. Wilkerson*, 257 N.C. App. 927, 930 (2018)). Here, the length of the delay creates a *prima facie* showing the delay was caused by the prosecution’s negligence, thus shifting the burden of proof to the State to explain the delay.

The reasons for the delay can be primarily attributed to Defendant. For example, the trial court found Defendant had acknowledged in her speedy trial motion that some delay was due to her failure to secure replacement counsel for the superior court trial and her failure to appear on two occasions. The trial court also found that the state trooper was subpoenaed to appear for trial on five dates, from which the court inferred the State was ready to proceed to trial. Further, the court found Defendant’s counsel had requested a continuance at least once. We conclude competent evidence supports the trial court’s findings of fact and the findings of fact support the court’s conclusions of law. *See Spinks*, 277 N.C. App. at 561.

“[D]elays occasioned by acts of the defendant or on his or her behalf are heavily counted against the defendant and will generally defeat his or her speedy trial claim.” *Farook*, 381 N.C. at 181. Accordingly, the reasons for the delay heavily weigh against Defendant’s claim asserting her speedy trial right was violated.

C. Assertion of Speedy Trial Right

We next address whether Defendant asserted her right to a speedy trial.

The more serious the deprivation, the more likely a

defendant is to complain. The defendant's assertion of [her] speedy trial right, then, is entitled to strong evidentiary weight in determining whether the defendant is being deprived of the right. We emphasize that failure to assert the right will make it difficult for a defendant to prove that [s]he was denied a speedy trial.

Barker, 407 U.S. at 531–32. And it is even more difficult for a defendant to show a speedy trial violation when the case goes to trial soon after the filing of a formal speedy trial motion. *See State v. Farmer*, 376 N.C. 407, 417 (2020). In *Farmer*, our Supreme Court held that the defendant's failure to assert his speedy trial right was “heightened” because his case went to trial only four months and eleven days after he filed his formal speedy trial motion. *Id.*

Here, Defendant asserted her right to a speedy trial on 8 August 2023—only two weeks before her trial was scheduled to begin. Accordingly, this failure to assert her right to a speedy trial until the eve of trial weighs heavily against her.

D. Prejudice to Defendant

Finally, we address the prejudice prong of the *Barker* analysis.

To assess whether the defendant has suffered prejudice from the delay in bringing [her] case to trial, courts should analyze three interests identified by the *Barker* Court that are affected by an unreasonable delay: (1) oppressive pretrial incarceration; (2) the social, financial, and emotional strain and anxiety to the accused of living under a cloud of suspicion; and (3) impairment of the ability to mount a defense to the charges pending against the defendant.

Farook, 381 N.C. at 189. The third interest—whether the delay impaired the

defendant's ability to mount her defense—is the most serious component of the prejudice factor. *Barker*, 407 U.S. at 532.

“[A] criminal defendant may establish prejudice for purposes of [her] speedy trial claim through proof of either actual prejudice or presumptive prejudice.” *Farook*, 381 N.C. at 190 (citing *Doggett v. United States*, 505 U.S. 647, 655 (1992)).

Here, the first interest (oppressive pretrial incarceration) does not apply, as Defendant was not incarcerated leading up to trial. And Defendant does not present any argument regarding the second interest of social, financial, and emotional strain and anxiety. Defendant only argues she was prejudiced because the delay impaired her defense, the third interest. Defendant argues that the delay impaired her defense in two ways.

First, Defendant argues her defense was impaired because the trooper's recollection of the arrest faded by the time of trial, causing him to rely on his notes while testifying. But a defendant's “general allegations of faded memory are insufficient to carry [her] burden of showing prejudice; rather, the defendant must show that the resulting lost evidence or testimony was significant and would have been beneficial to [her] defense.” *State v. Armistead*, 256 N.C. App. 233, 241 (2017) (cleaned up). In this case, Defendant cannot prove, beyond mere speculation, that the trooper's testimony would have been beneficial to her defense had the trooper better remembered the details of her arrest rather than relying upon his notes, which were taken *at the time of the arrest*, when his memory was fresh.

And second, Defendant argues her defense was impaired because the trooper's dash camera footage was not available at trial. The State Highway Patrol routinely purges dash camera footage after ninety days. Defendant could have requested to preserve the footage prior to its purging from the system, but she did not request the footage until January 2022, more than three years after the incident. Now, Defendant merely speculates the footage may have been exculpatory. Because Defendant did not preserve the footage and we do not know what it would have shown, it is impossible for us to say what prejudice, if any, was caused by the footage's unavailability at trial.

III. Conclusion

Overall, even though Defendant's superior court trial was delayed approximately two years after her district court trial, we conclude Defendant's speedy trial right was not violated. The reasons for the delay can be attributed to Defendant: Defendant failed to appear for trial on two occasions and moved for a continuance. Defendant failed to assert her right to a speedy trial until two weeks before her scheduled trial. Defendant has failed to show prejudice due to the delay.

Accordingly, we conclude the trial court properly denied Defendant's motion to dismiss for an alleged speedy trial violation.

NO ERROR.

Judges TYSON and HAMPSON concur.

Report per Rule 30(e).