

Circuit Court for Wicomico County
Case No. C-22-CR-19-000630

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 917

September Term, 2022

MYRON L. JOYNES

v.

STATE OF MARYLAND

Berger,
Arthur,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 3, 2023

*At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Convicted by a jury in the Circuit Court for Wicomico County of obstructing and hindering a police officer, Myron L. Joynes, appellant, presents for our review a single issue: whether he was denied his constitutional right to a speedy trial. For the reasons that follow, we shall affirm the judgment of the circuit court.

At trial, the State produced evidence that on October 15, 2019, Salisbury Police Officer Jesse Kissinger was dispatched to Mr. Joynes’s residence to investigate a report of a “domestic issue.” When the officer arrived at the residence, Margina Taylor, who is “[m]arried [to] or had been dating Mr. Joynes for quite some[]time,” exited the residence and stated: “[Y]ou need to get him.” Officer Kissinger saw Mr. Joynes “standing inside the residence, inside the door.” Ms. Taylor “walked back into the residence,” then “reappeared with paperwork in her hand.” Ms. Taylor “went back in as if she forgot something,” but “Mr. Joynes stepped in between her and the door.” Mr. Joynes “began to shut the door,” and the officer “gave him commands not to . . . , which he refused to acknowledge.” Officer Kissinger “stopped the door from being shut” to “make sure Ms. [Taylor] was able to exit the residence safely, and check on her welfare and anybody else inside the residence,” but Mr. Joynes “began to put his whole entire body into the door to forcibly shut it.” Mr. Joynes “continued to swat at [the officer] and push [him] away from the door.” When “the door was able to get open,” Officer Kissinger pursued Mr. Joynes and, following a lengthy struggle, arrested him.

On October 21, 2019, Mr. Joynes was charged in the District Court. On October 29, 2019, the State filed a criminal information in the circuit court. On November 4, 2019, Tamika Fultz of the Office of the Public Defender filed her appearance on behalf of Mr.

Joynes. Ms. Fultz also filed on behalf of Mr. Joynes a “Plea and Election of Speedy Trial by Jury,” in which he “elect[ed] a speedy trial by jury.” On December 13, 2019, attorney Sandra Kelly Fried entered her appearance on behalf of Mr. Joynes. On January 31, 2020, Ms. Fried requested a postponement of trial, which had been scheduled to commence on February 10, 2020. The court granted the request and rescheduled trial for April 6, 2020. On March 17, 2020, the circuit court’s Administrative Judge issued an order in which he stated: “Pursuant to the Administrative Order on Statewide Judiciary Restricted Operations due to the COVID-19 Emergency, dated March 16, 2020, it is hereby ORDERED that all cases are hereby administratively postponed, except for mandatory and emergency matters allowed under the Administrative Order and by the Administrative Judge.” The court subsequently rescheduled trial for October 13, 2020.

On August 31, 2020, Ms. Fried moved to withdraw her appearance on the ground that Mr. Joynes had “fired her.” On September 14, 2020, the court granted the motion. On September 15, 2020, Ms. Fultz re-entered her appearance on behalf of Mr. Joynes, and filed on his behalf a second “Plea and Election of Speedy Trial by Jury,” in which he again “elect[ed] a speedy trial by jury.” On September 25, 2020, Ms. Fultz requested a postponement of trial on the ground that she “need[ed] more time to review and prepare the case.” The court granted the request and rescheduled trial for December 2, 2020. On November 24, 2020, the State requested a postponement of trial on the ground that the

Supreme Court of Maryland (formerly known as the Court of Appeals of Maryland)¹ had suspended jury trials in all Maryland courts from November 16, 2020, through December 31, 2020. The court granted the request and rescheduled trial for February 22, 2021. On some later date, the court again rescheduled trial for May 10, 2021.²

On April 8, 2021, Mr. Joynes, *pro se*, filed a “motion” in which he stated, *inter alia*, that he “object[ed] to any[]more postpone[ments]” of trial, and cited his “right to a fast and speedy trial.” On April 23, 2021, Ms. Fultz filed on behalf of Mr. Joynes a motion to dismiss on the ground, *inter alia*, that he “ha[d] been denied his right to a speedy trial pursuant to the Sixth Amendment of the United States Constitution.” Ms. Fultz stated:

Mr. Joynes has been incarcerated since his arrest, which is approximately six (6) months shy of two (2) years. Mr. Joynes indicates that he suffers from anxiety and depression, and the lengthy pendency of this case and his prolonged incarceration has caused a negative impact on his mental health. During the pendency of this matter, M[r]. Joynes has exhibited high levels of anxiety and irritability. In addition, Mr. Joynes indicates that one of his potential witnesses, Darlene Hall, passed away in May 2020 Although undersigned counsel’s appearance was previously entered in this matter, Mr. Joynes obtained private counsel; therefore, undersigned counsel’s appearance was removed and not re-entered until September 15, 2020, well after the transition of a potential defense witness.

¹At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022. *See also* Rule 1-101.1(a) (“[f]rom and after December 14, 2022, any reference in these Rules or, in any proceedings before any court of the Maryland Judiciary, any reference in any statute, ordinance, or regulation applicable in Maryland to the Court of Appeals of Maryland shall be deemed to refer to the Supreme Court of Maryland”).

²The record does not indicate when this postponement took place, or whether it was initiated by the court or by request of the State or Ms. Fultz.

On April 26, 2021, the court held a hearing on the motion, at which Ms. Fultz “submit[ted] on th[e] motion.” Denying the motion, the court stated:

The [c]ourt in consideration of the factors of *Barker v. Wingo*, [407 U.S. 514 (1972),] including prejudice as to the arguments submitted by counsel both in the written motion to dismiss as well as by the State here today, specifically also considering the nature of prior postponements in this action, the ability to have had the case previously litigated prior to the COVID pandemic, the [c]ourt’s going to deny the motion to dismiss.

On May 4, 2021, Ms. Fultz filed on behalf of Mr. Joynes a “Request for Examination to Determine Competency to Stand Trial.” The court subsequently granted the request and postponed trial. On May 13, 2021, Ms. Fried re-entered her appearance on behalf of Mr. Joynes. On May 19, 2021, Mr. Joynes’s evaluator “request[ed] a 30 day extension for [her] definitive report.” The court granted the request and again postponed trial. On July 19, 2021, Ms. Fried filed on behalf of Mr. Joynes a request for postponement of trial on the ground that he was still “awaiting a competency evaluation.” The court granted the request and rescheduled trial for August 23, 2021. On August 16, 2021, the court found Mr. Joynes competent to stand trial. That same day, the court issued an administrative order in which it postponed “all jury trials involving defendants incarcerated at the Wicomico County Detention Center,” due “to a COVID-19 outbreak at the . . . Center” and subsequent “lockdown [of] the facility to prevent further spread of the virus.”

The court subsequently rescheduled trial for September 27, 2021. On that date, the court, prior to jury selection, stated into the record the following:

[Mr. Joynes] was going to request a postponement this morning. It’s my understanding, given the nature of this and that there’s been multiple postponements, the [c]ourt was disinclined to grant that. However, in the meantime defense counsel, Ms. Fried, had a conversation with [Mr. Joynes]

that became very loud and heated and she's now having some medical issues, we have called an ambulance for her. She's being treated by EMS in the back. The ambulance is on its way to transport her to the hospital.

Because of that we're obviously unable to proceed this morning so it will have to be just postponed generally[.]

The court subsequently rescheduled trial for November 16, 2021. On November 12, 2021, the State requested a postponement on the grounds that a witness for the State would be unavailable for trial, and the prosecutor wished to assist his parents with a health care matter. The court granted the request and rescheduled trial for December 21, 2021. On that date, trial commenced, and Mr. Joynes was subsequently convicted of the above-described offense.

Mr. Joynes contends that for numerous reasons, he “was denied his constitutional right to a speedy trial.” We disagree. In *Barker*, the U.S. Supreme Court identified four “factors which courts should assess in determining whether a particular defendant has been deprived of his right” to a speedy trial: “[l]ength of delay, the reason for the delay, the defendant’s assertion of his right, and prejudice to the defendant.” 407 U.S. at 530 (footnote omitted). We have stated that “[n]one of these factors is, in itself, either necessary or sufficient to find a violation of the speedy trial right; instead, they are related factors and must be considered together with such other circumstances as may be relevant.” *Nottingham v. State*, 227 Md. App. 592, 613 (2016) (internal citation and quotations omitted).

With respect to the length of delay of Mr. Joynes’s trial, we agree that the delay of approximately two years and two months is of constitutional dimension. But, the Supreme

Court of Maryland has stated that length of delay “is the least determinative of the four factors that we consider in analyzing whether [a defendant’s] right to speedy trial has been violated.” *State v. Kanneh*, 403 Md. 678, 690 (2008). With respect to the reason for the delay, we note that of the eleven postponements of trial, at least nine occurred at the request of Mr. Joynes or in response to circumstances outside of the court and State’s control. We further note that the State’s only request for postponement on grounds unrelated to the response to the COVID-19 emergency resulted in a delay of only 35 days. With respect to Mr. Joynes’s assertion of his right, we recognize that on four occasions, he either requested a speedy trial, objected to further postponement of trial, or moved to dismiss on the ground that his right to a speedy trial had been violated. But, Mr. Joynes did not renew his request for a speedy trial at any time during the period of approximately eight months following the denial of the motion to dismiss. Finally, with respect to prejudice to Mr. Joynes, we have stated that “the most important factor in the *Barker* analysis is whether the defendant has suffered *actual* prejudice.” *Henry v. State*, 204 Md. App. 509, 554 (2012) (citation omitted) (emphasis added). Here, there is no evidence that any anxiety, depression, or irritability suffered by Mr. Joynes during his pretrial incarceration actually prejudiced his defense. We also note that Mr. Joynes’s potential witness, Ms. Hall, passed away during the period when the court had been closed in response to the COVID-19 emergency, and at no time did Mr. Joynes make a proffer of Ms. Hall’s expected testimony and how the loss of that testimony actually prejudiced his defense. Considering all of these factors and

circumstances together, we conclude that Mr. Joynes was not deprived of his constitutional right to a speedy trial.

**JUDGMENT OF THE CIRCUIT COURT
FOR WICOMICO COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**