STATE OF LOUISIANA	*	NO. 2018-KA-0867
VERSUS	*	COURT OF APPEAL
RUDOLPH JOSEPH	*	FOURTH CIRCUIT
	*	STATE OF LOUISIANA

* * * * * * *

APPEAL FROM
CRIMINAL DISTRICT COURT ORLEANS PARISH
NO. 508-659, SECTION "0"
Honorable Tracey Flemings-Davillier, Judge

* * * * * *

JUDGE SANDRA CABRINA JENKINS

* * * * * *

(Court composed of Judge Rosemary Ledet,
Judge Sandra Cabrina Jenkins, Judge Dale N. Atkins)

LEDET, J., CONCURS WITH REASONS

Leon Cannizzaro, District Attorney
Donna Andrieu, Assistant District Attorney
Irena Zajickova, Assistant District Attorney
ORLEANS PARISH
619 S. White Street
New Orleans, LA 70119

COUNSEL FOR STATE OF LOUISIANA/APPELLANT

Sherry Watters
LOUISIANA APPELLATE PROJECT
P. O. Box 58769
New Orleans, LA 70158

COUNSEL FOR DEFENDANT/APPELLEE

REVERSED AND REMANDED

MARCH 20, 2019

The State appeals the trial court's June 25, 2018 ruling granting defendant's motion to quash the indictment based upon a violation of defendant's right to a speedy trial. The State argues that defendant failed to show that either the statutory time limitations for commencing trial had expired or that his constitutional right to speedy trial had been violated. Based on our review of the record of this case and in light of the applicable law and jurisprudence, we find merit in the State's arguments. Thus, finding that the trial court abused its discretion in granting defendant's motion to quash the indictment for a violation of his right to a speedy trial, we reverse the trial court's ruling, reinstate the indictment, and remand for further proceedings.

PROCEDURAL HISTORY[1]

The record of this case reflects the following procedural history relevant to our subsequent discussion of the statutory time limitations for commencing trial,

[1] The facts underlying the charged offenses are not relevant to this appeal.

pursuant to La. C.Cr.P. art. 578, and the factors for determining a constitutional violation of defendant's right to a speedy trial, as set forth in *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972).

On September 15, 2011, the grand jury for Orleans Parish returned an indictment charging defendant, Rudolph Joseph, with one count of aggravated rape, two counts of forcible rape, and three counts of second degree kidnapping, violations of La. R.S. 14:42, 14:42.1, and 14:44.1, respectively.[2] Defendant was charged "at large," and an *alias capias* was issued for his arrest.

On November 2, 2011, defendant appeared for arraignment unrepresented by counsel.[3] After the trial court determined defendant's indigency and appointed counsel, the arraignment proceeded and defendant entered a plea of not guilty. On that same date, defense counsel filed an omnibus motion to suppress statements, evidence, and identification, and for discovery and inspection.

From the date of defendant's arraignment and filing of pre-trial motions, on November 2, 2011, until a hearing was finally held on those motions, on March 9, 2017, proceedings in this case were reset forty-two times. On thirty-four dates set for hearing on motions, the record indicates that defendant was in the custody of

[2] La. R.S. 14:42 and 14:42.1 were subsequently amended by La. Acts 2015, Nos. 184 and 256, to rename the crimes of aggravated rape as "first degree rape" and forcible rape as "second degree rape." *See* La. R.S. 14:42(E) (explaining that "aggravated rape" and "first degree rape" mean the offense defined by this statute and any reference to the crime of aggravated rape is the same as a reference to the crime of first degree rape); La. R.S. 14:42.1(C) (explaining that "forcible rape" and "second degree rape" mean the offense defined by this statute and any reference to the former is the same as a reference to the latter).

[3] On two previous dates set for arraignment, September 30, 2011 and October, 19, 2011, defendant failed to appear and the matter was reset. The court minutes for October 19, 2011 indicate that defendant was in custody in East Baton Rouge Parish and was not transported; accordingly, the State filed a motion and order for writ of habeas corpus ad prosequendum to secure defendant's appearance for arraignment on November 2, 2011.

the Department of Corrections and the State failed to secure defendant's transportation to court. In addition, the State was granted nine continuances; the defense was granted seven continuances; and four joint continuances were granted. Finally, on March 9, 2017, the trial court held a hearing on defendant's motions to suppress evidence, identification, and statements. At the conclusion of that hearing, the trial court denied defendant's motions and set a discovery hearing for March 20, 2017.

On March 31, 2017, the record indicates that discovery was satisfied and a trial date was set for May 30, 2017, but later reset for August 28, 2017. On the latter date, the record indicates that defense counsel had withdrawn and a hearing to determine counsel was set. On October 25, 2017, the trial court assigned new counsel to defendant; also, the State tendered a plea offer to defendant. On November 15, 2017, defendant rejected the State's plea offer; and the case was set for another discovery hearing.

On the subsequent six court dates, the record indicates that another substitute defense counsel enrolled and discovery was being reviewed. On April 13, 2018, the State advised the court that all discovery had been tendered; a pre-trial conference was set for May 17, 2018; and trial was set for June 25, 2018. On May 17, 2018, defendant filed his motion to quash the indictment.

On June 25, 2018, the trial court held a hearing on defendant's motion to quash the indictment. At the conclusion of the hearing, the trial court granted defendant's motion to quash.

The State's timely appeal followed.

DISCUSSION

In its sole assignment of error, the State argues that the trial court erred in granting defendant's motion to quash the indictment because defendant failed to show that either his statutory or constitutional right to a speedy trial was violated. As to defendant's statutory right to a speedy trial, the State argues that the trial court erred in finding that the statutory time limitations for commencing trial had expired. As to defendant's constitutional right to a speedy trial, the State argues that defendant failed to establish a constitutional violation, based on the four factor test enunciated in *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972).

Louisiana law and jurisprudence recognizes two distinct bases for asserting the right to a speedy trial: a statutory right based upon the time limitations set forth by La. C.Cr.P. art. 578; and a constitutional right guaranteed by the Sixth Amendment to the United States Constitution and Article I, § 16 of the Louisiana Constitution. *See State v. Sorden*, 09-1416, p. 7 (La. App. 4 Cir. 8/4/10), 45 So.3d 181, 185-86 (citing *State v. Powers*, 344 So.2d 1049, 1051 (La. 1977)). The two are not equivalent; "the question of whether a speedy trial violation is statutory or constitutional involves wholly separate inquiries." *Sorden*, 09-1416, p. 7, 45 So.3d at 186.

In this case, defendant's motion to quash asserted both his statutory and constitutional rights to a speedy trial had been violated, both of which arguments

were presented to the trial court. In granting defendant's motion to quash, the trial court's ruling appears to be based upon a finding that the statutory time limitations had expired, stating as follows:

> [T]he State does have to meet its burden of proof based on the statute of limitations has already been established by law and based on the information provided there appears to have been no interruption and no suspension of time that would have – that would suffice for the – this several years of delay in proceeding to trial. So, at this time, the Court has no choice, but to grant the defense's motion to quash.

The granting of a defendant's motion to quash an indictment is a discretionary ruling by the trial court which should not be disturbed on appeal absent an abuse of discretion. *State v. Noel*, 13-1218, p. 4 (La. App. 4 Cir. 10/1/14), 151 So.3d 706, 710 (citing *State v. Love*, 00-3347, pp. 9-10 (La. 5/23/03), 847 So.2d 1198, 1206). In consideration of the trial court's oral reasons for granting defendant's motion to quash, we will address first whether defendant established a statutory violation of his right to a speedy trial.

Statutory Right to a Speedy Trial

One of the statutory grounds upon which a defendant's motion to quash may be based is that the time limitation for the commencement of trial has expired. La. C.Cr.P. art. 532(A)(7). The time limitations on the commencement of trials, depending on the classification of the offense charged, are mandated by La. C.Cr.P. art. 578, which provides in pertinent part, "no trial shall be commenced nor any bail obligation enforceable: (2) in other [non-capital] felony cases after two years from the date of institution of the prosecution." Upon the expiration of the statutory time limitation, and when asserted by motion of the defendant, the trial

court shall dismiss the indictment, unless some exception applies to interrupt or suspend the time limitation, in accordance with La. C.Cr.P. arts. 579 and 580. *See* La. C.Cr.P. art. 581; *see also State v. Rome*, 93-1221 (La. 1/14/94), 630 So.2d 1284, 1286 ("The purpose of the statute's mandating dismissal, when legislative time limits have elapsed, is to enforce the accused's right to a speedy trial and to prevent the oppression caused by suspending criminal prosecutions over citizens for indefinite periods of time.")

When a defendant moves to quash the indictment asserting an apparently meritorious claim that the time limitation has expired, the State bears the burden to show that either an interruption or suspension of the time limitation occurred and that the commencement of trial is timely. *See Sorden*, 09-1416, p. 5, 45 So.3d at 184; *Rome*, *supra*.

In this case, the State argues that the time limitation to commence trial was suspended in accordance with La. C.Cr.P. art. 580(A), and the two-year time limitation had not expired by the date of the trial court's ruling on defendant's motion to quash. La. C.Cr.P. art. 580 (A) provides:

> When a defendant files a motion to motion to quash or other preliminary plea, the running of the periods of limitation established by Article 578 shall be suspended until the ruling of the court thereon; but in no case shall the state have less than one year after the ruling to commence the trial.

Louisiana jurisprudence applying La. C.Cr.P. art. 580(A) holds that a "preliminary plea is any plea filed after prosecution is instituted, but before trial, that causes the trial to be delayed," including a motion to suppress, motion for continuance filed

by defendant, and joint motion for continuance. *State v. Ramirez*, 07-0652, p. 5 (La. App. 4 Cir. 1/9/08), 976 So.2d 204, 208 (citing *State v. Brooks*, 02-0792, p. 6 (La. 2/14/03), 838 So.2d 778, 782); *see State v. Clay*, 07-0698, p. 4, n. 5 (La. App. 4 Cir. 10/24/07) 970 So.2d 657, 659 (collecting cases); *see also State v. Fish*, 05-1929 (La. 4/17/06), 926 So.2d 493; *State v. Fabacher*, 362 So.2d 555, 556-57 (La. 1978). In addition, this Court has held that the withdrawal of counsel suspends the La. C.Cr.P. art. 578 time limitation until new counsel is appointed or retained. *See State v. Patin*, 11-0488, p. 19 (La. App. 4 Cir. 5/23/12), 95 So.3d 542, 553; *see also Brooks*, 02-0792, p. 9, 838 So.2d at 784.

Applying the foregoing to the record of this case, we find that the two-year time limitation for bringing defendant to trial, pursuant to La. C.Cr.P. art. 578, had not expired prior to the trial court's ruling granting defendant's motion to quash. The record reflects that the prosecution of this case was instituted on September 15, 2011. Less than two months into the two-year time period, on November 2, 2011, defense counsel filed a motion to suppress evidence, statements, and identification, which suspended the time limitation until the ruling on that preliminary plea on March 9, 2017. Then, less than six months later, on August 28, 2017, defendant's appointed counsel withdrew, again suspending the time limitation; a hearing to determine counsel was set for September 25, 2017; and new counsel was assigned this case on October 25, 2017.[4] As of that date, due to

[4] On September 25, 2017, the record reflects that defense counsel Daniel Engelberg "appeared on behalf of defendant" for the hearing to determine counsel. However, defendant was not transported to court and the hearing to determine counsel was reset for October 25, 2017, on which date the record reflects that Mr. Engelberg was "assigned this case."

the two suspensions of the case, approximately eight months of the two-year time limitation had tolled.[5] And, because "in no case shall the State have less than one year after the ruling on the preliminary pleas to commence the trial," the State would have had until October 25, 2018 to commence defendant's trial. *Ramirez*, 07-0652, p. 5, 976 So.2d at 207 (citing La. C.Cr.P. art. 580). Thus, upon review of the record and in light of the applicable statutory provisions, we find that the two-year time limitation to commence this trial had not expired when defendant filed his motion to quash, on May 17, 2018.

Insofar as the trial court's ruling was based upon a finding that defendant's statutory right to a speedy trial was violated, we find the trial court abused its discretion in granting defendant's motion to quash. We now turn to review whether defendant established a constitutional violation of his right to a speedy trial.[6]

Constitutional Right to a Speedy Trial

A defendant's constitutional right to a speedy trial is a fundamental right guaranteed by the Sixth Amendment to the United States Constitution and Article I, § 16 of the Louisiana Constitution. *Love*, 00-3347, p. 14, 847 So.2d at 1209. The test for determining whether a defendant's constitutional right to a speedy trial

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[5] We also note that, although the record does not indicate that motions were filed, the subsequent six court dates were set for discovery hearings to allow defense counsel to review discovery from previous counsel and to file inventory. In addition, another new defense counsel was assigned this case on January 9, 2018.

[6] Although the trial court's granting of defendant's motion to quash appears to be based on a finding that the statutory time limitations had expired, defendant also argued to the trial court that his constitutional right to a speedy trial had been violated; and, in his appellee brief, defendant argues that the trial court's ruling granting the motion to quash should be affirmed on both statutory and constitutional grounds.

has been violated was enunciated by the United States Supreme Court in *Barker v. Wingo*, 407 U.S. 514, 532, 92 S.Ct. 2182, 33 L.Ed.2. 101 (1972) and adopted by the Louisiana Supreme Court in *State v. Reaves*, 376 So.2d 136 (La. 1979). Applying the *Barker* test, courts shall consider four factors: (1) the length of delay in bringing defendant to trial; (2) the reason for delay; (3) the defendant's assertion of his right to a speedy trial; and (4) the prejudice to the defendant. *Barker*, 407 U.S. at 533, 92 S.Ct. at 2192-93; *Reaves*, 376 So.2d at 138. The factors must be considered together in light of the circumstances of each case; none of the four factors is "either a necessary or sufficient condition to the finding of a deprivation of the right to a speedy trial." *Barker*, 407 U.S. at 533, 92 S.Ct. at 2193; *see Love*, 00-3347, p. 15, 847 So.2d at 1210.

The first factor, the length of delay, is a "triggering mechanism" for further inquiry into the other three *Barker* factors, which need not be addressed unless the reviewing court finds the length of delay to be presumptively prejudicial. *State v. Shannon*, 09-0305, p. 6 (La. App. 4 Cir. 9/9/09), 17 So.3d 1061, 1066 (quoting *State v. Santiago*, 03-0693, p. 3 (La. App. 4 Cir. 7/23/03), 853 So.2d 671, 673). In determining whether the length of delay is presumptively prejudicial or oppressive, the gravity of the offense and complexity of the case must be considered; "[t]he delay that can be tolerated for an ordinary street crime is considerably less than for a serious, complex conspiracy charge." *State v. Jones*, 12-0653, p. 9 (La. App. 4 Cir. 2/6/13), 107 So.3d 1285, 1291 (quoting *Barker*, 407 U.S. at 531, 92 S.Ct. at 2192).

In this case, the length of delay between the filing of the indictment, on September 15, 2011, and the filing of defendant's motion to quash, on May 17, 2018, was more than six and one-half years. The indictment against defendant includes, among the six counts, one count of aggravated rape, which carries a mandatory sentence of life imprisonment without benefit of parole, probation, or suspension of sentence. Despite the gravity of the offenses charged in the indictment, the six-year delay in this case may be deemed presumptively prejudicial, thereby triggering further inquiry into the *Barker* factors. *See Shannon*, 09-0305, p. 7, 17 So.3d at 1066 (finding that a three-year-and-four-month delay on a charge of second degree murder "may be deemed 'presumptively prejudicial.'"); *see also*, *State v. Quinn*, 13-0726, p. 5 (La. App. 4 Cir. 2/19/14), 136 So.3d 267, 270 (finding no violation of constitutional speedy trial right based on defendant's failure to show specific prejudice regardless of whether the two year delay on attempted second degree murder charge constituted presumptive prejudice).

Regarding the second factor, the reason for the delay, our review of the record reveals that the bulk of the six-year delay in this case is attributable to the State's failure to secure defendant's presence in court for a hearing on the pre-trial motions to suppress. As noted in our earlier discussion regarding the statutory time limitations, the filing of the motion to suppress suspended the time limitation for commencing trial until the trial court ruled thereon; and, due substantially to the State's failure to secure defendant's transportation to court for hearing dates, a

hearing and ruling on defendant's motion to suppress was delayed, and thus suspended, for more than five years. *See* La. C.Cr.P. art. 580; *Clay*, 07-0698, p. 4, n. 5, 970 So.2d at 659.

While the State acknowledges the numerous delays in the case as a result of defendant not being transported for court proceedings, the State also argues that these delays should "weigh lightly against the State" because it made numerous attempts to secure defendant's presence for court proceedings by filing writs of habeas corpus ad prosequendum.[7] However, the record reflects that the State filed only six writs of habeas corpus ad prosequendum between the date of defendant's arraignment, on November 2, 2011, and the date of the motion hearing, on March 9, 2017; but, during that time, the State failed to secure defendant's transportation thirty-four times. In consideration of the State's statutory responsibility to secure the presence of a defendant who is incarcerated within the state by applying for the order of transportation, pursuant to La. R.S. 15:706(D),[8] we find that the State is

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[7] A writ of habeas corpus ad prosequendum is "[a] writ which issues when it is necessary to remove a prisoner in order to *prosecute* in the proper jurisdiction wherein the fact was committed." *State v. Williams*, 11-1231, p. 2, n. 1 (La. App. 4 Cir. 5/23/12), 95 So.3d 554, 560 (Ledet, J., in dissent) (quoting *State v. Terry*, 458 So.2d 97, 99 (La. 1984)) (internal quotation marks omitted).

[8] La. R.S. 15:706(D) provides, in pertinent part, as follows:

> The following provisions shall govern the transportation of each prisoner who is incarcerated in a parish prison or other correctional facility located within the state and whose presence is required in a criminal or civil court proceeding in a district court for a parish outside of the judicial district in which the prisoner is incarcerated:
> (1) The district attorney who is to try the prisoner, … shall apply to the court in which the court proceeding is to be held for an order directing the transportation of the prisoner. …
> (2) Upon finding that the prisoner's presence is required, the court shall order the sheriff of the parish in which the criminal or civil court proceeding is to be held to take custody of the prisoner in the parish in which the prisoner is incarcerated and to transport the prisoner to the parish in which the criminal or civil court proceeding is to be held and return the prisoner to that parish if so required.

primarily responsible for the five-year suspension that is the bulk of the six-year delay in this case. *See State v. Devito*, 391 So.2d 813 (La. 1980) ("The delays and problems encountered by the state in extradition, or those caused by its own mismanagement, cannot be charged to the defendant.").

As to the third *Barker* factor, defendant's invocation of his right to a speedy trial, the record reflects, and defendant concedes, that defendant did not file a motion for a speedy trial at any time prior to the filing of his motion to quash on May 17, 2018. But, as also held in *Barker*, this Court has not adopted a bright line rule that defendant must assert his right to speedy trial lest it be waived; "[w]hile the 'failure to assert the right will make it difficult for a defendant to prove that he was denied a speedy trial," a defendant's assertion or failure to assert the right is one factor to be considered in reviewing the history and circumstances of the case. *State v. Andrews*, 18-0149, p. 15 (La. App. 4 Cir. 9/12/18), 255 So.3d 1106, 1117 (quoting *Noel*, 13-1218, pp. 7-8, 151 So.3d at 712, in turn quoting *Barker*, 407 U.S. at 528, 531-32, 92 S.Ct. at 2192). This Court also considers the conduct of both the prosecution and defendant in impeding or moving the case to trial, such as in the frequency and force of objections to delay. *See Love*, 00-3347, p. 19, 847 So.2d at 1211-12 (finding defendant's failure to assert his right to speedy trial and the lack of frequency and force in objecting to delays in the case weighed against defendant); *Andrews*, 18-0149, p. 16, 255 So.3d at 1117 (finding little weight in defendant's failure to file a motion for speedy trial prior to the motion to quash,

given the history of the case and pattern of delay and continuances by the State, to which defendant objected consistently).

The record of this case reflects only three times—January 11, 2012; January 20, 2012; March 1, 2012—when defendant objected to a continuance being granted to the State. In the subsequent five years, the record does not indicate any further objections by defendant. We also note that defendant was granted seven continuances and joined the State in four continuances. Moreover, following the trial court's ruling on defendant's motion to suppress which ended the five-year suspension, the record reflects two withdrawals and substitutions of defense counsel and several discovery hearings, indicating that defendant was not prepared to proceed. Thus, under the particular circumstances and record of this case, we find defendant's failure to lodge objections to the numerous delays in bringing this case to trial and failure to assert his right to a speedy trial weigh against a finding of a constitutional violation.

The fourth and final *Barker* factor to be considered is the prejudice to defendant resulting from the delay in commencing trial. The prejudice to defendant should be assessed in light of three interests that the right to a speedy trial was designed to protect: (1) to prevent oppressive pretrial incarceration; (2) to minimize anxiety and concern of the accused; and (3) to limit the possibility that the defense will be impaired. *Love*, 00-3347, pp. 19-20, 847 So.2d at 1212 (citing *Barker*, 407 U.S. at 532, 92 S.Ct. at 2193). Of these three interests, the *Barker* Court considered, as does this Court, the third to be the "most serious … because

the inability of a defendant adequately to prepare his case skews the fairness of the entire system." 407 U.S. at 532, 92 S.Ct. at 2193; *see Andrews*, 18-0149, p. 17, 255 So.3d at 1117; *State v.Pierre*, 15-0293, p. 20 (La. App. 4 Cir. 3/23/16), 192 So.3d 140, 152.

In his motion to quash, filed on May 17, 2018, defendant argued that he had suffered prejudice as a result of the length of delay, his pretrial incarceration,[9] and several substitutions of defense counsel affecting his ability to communicate with counsel and assist in his own defense. In response to defendant's motion to quash, the State argued that defendant made no allegations of specific prejudice impairing his ability to present a defense, particularly noting that defendant had not asserted the loss of witnesses or evidence. Then, defendant supplemented his motion to quash, asserting "specific and actual injury," pertaining to the charge of aggravated rape, due to the death of four potential defense witnesses since the inception of these proceedings: two of defendant's grandparents, his aunt, and a close family friend; he avers that these individuals would have provided "potential alibi and/or other vital testimony."

While we acknowledge that the loss of witnesses can substantially impair a defendant's ability to present a defense, we do not accept defendant's vague assertion that potential witnesses who are no longer available would have provided "alibi and/or vital testimony" as a sufficient showing of actual prejudice. We find

[9] Notably, defendant's pretrial incarceration is unrelated to these proceedings; the court minutes and docket master reflect that defendant has been incarcerated on unrelated charges from East Baton Rouge Parish since the institution of prosecution in this case.

no prior indication in the record that defendant noticed the State of his intention to offer a defense of alibi, pursuant to La. C.Cr.P. art. 727, which provides in pertinent part as follows:

> A. Upon written demand of the district attorney …, the defendant shall serve … upon the district attorney a written notice of his intention to offer a defense of alibi. Such notice by the defendant shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.
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> D. Upon the failure of either party to comply with the requirements of this rule, the court may exclude the testimony of any undisclosed witness offered by such party as to the defendant's absence from or presence at, the scene of the alleged offense. …

In light of the requirements of La. C.Cr.P. art. 727, defendant's failure to take steps at any time during these proceeding to provide notice of alibi witnesses, or to preserve vital testimony of potential witnesses, does not support his conclusory assertion that the four individuals would have provided alibi or vital testimony and that he is prejudiced by the loss of these witnesses. In addition, we note defendant does not assert that these individuals were the only potential alibi witnesses or only individuals able to testify to relevant facts within their knowledge. Thus, we find defendant's assertion that his defense has been impaired by the loss of potential defense witnesses to be speculative and insufficient to establish actual prejudice. *See State v. Ervin*, 08-1078, pp. 8-9 (La. App. 4 Cir. 4/1/09), 9 So.3d 303, 309-10; *State v. Stewart*, 07-0850, pp. 9-10 (La. App. 4 Cir. 4/9/08), 983 So.2d 166, 171-72 ("[Defendant] does not state that he knows of any witnesses who observed the

incident occur. Thus, his argument about potential witnesses is purely speculative.").

Upon careful consideration of the *Barker* factors in light of the particular history and circumstances of this case, we find that defendant failed to establish a constitutional violation of his right to a speedy trial. While the pretrial delay of more than six years can be considered presumptively prejudicial, and the State repeatedly failed in its responsibility to secure defendant's transportation for court hearings, defendant failed to object to the numerous delays, failed to assert his right to a speedy trial, and failed to establish specific prejudice as a result of the delays in this case. We finally note that the gravity of the offenses charged in the indictment weigh against finding the six-year delay in this case to be prejudicial. Thus, for the foregoing reasons, we find no constitutional violation of defendant's right to a speedy trial, and we find the trial court abused its discretion in granting defendant's motion to quash the indictment.

CONCLUSION

For the foregoing reasons, we find the trial court abused its discretion in granting defendant's motion to quash the indictment based on a finding that defendant's right to a speedy trial was violated. Accordingly, we reverse the trial court's ruling; we reinstate the charges against defendant; and we remand the case for further proceedings.

REVERSED AND REMANDED