

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY DONIQUE CLAY,

Defendant-Appellant.

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UNPUBLISHED

January 26, 2010

No. 286478

Jackson Circuit Court

LC No. 06-004307-FC

Before: Cavanagh, P.J., and Fitzgerald and Shapiro, JJ.

SHAPIRO, J. (*concurring*).

I concur in the result in this case, but write separately to note two points. First, I do not agree with the majority that there was some failure of preservation in the trial court. Indeed, the record reveals that defense counsel was vigorous in repeatedly raising the issue of excessive delay and asserting his client's right to dismissal of the charges. Second, I believe it is significant to the due process issue that defendant does not claim that the Department of Corrections purposely delayed issuance of notice to the prosecutor.

/s/ Douglas B. Shapiro