REL: October 8, 2021

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Alabama Court of Criminal Appeals

OCTOBER TERM, 2021-2022

CR-20-0148

State of Alabama

v.

Gregory Labarron Crandle

Appeal from Mobile Circuit Court
(CC-17-3052)

McCOOL, Judge.

The State of Alabama appeals the Mobile Circuit Court's order granting Gregory Labarron Crandle's motion to dismiss the case against him.

On October 7, 2020, Crandle filed a motion to dismiss the case against him based on the State's alleged violation of his right to a speedy trial and failure to afford him due process of law. In his motion, Crandle alleged that he was arrested on September 20, 2016, for the charge of second-degree assault and that he was subsequently indicted in June 2017, on the second-degree assault charge. Crandle alleged that his right to a speedy trial under Barker v. Wingo, 407 U.S. 514 (1972), had been violated because: he had been confined in the Mobile Metro Jail or with the Alabama Department of Mental Health for the entirety of the four years since his arrest; that he had requested several times that the court require the charge to be adjudicated or dismissed; and that witnesses had disappeared and evidence had been lost, which would require him to "experience unfair prejudice having to defend himself on [a] charge[]" relating to an incident that occurred more than four years ago. (C. 5-6).

On November 5, 2020, the State filed a response to Crandle's motion to dismiss. The State, in its response, stated that Crandle had been arrested on a capital-murder charge on July 29, 2016, and, while in jail on that charge, he allegedly committed a second-degree assault on September 16, 2016. The State claimed that an arrest warrant was issued for the second-degree assault charge against Crandle on September 20, 2016, and that Crandle was indicted on the second-degree assault charge on June 16, 2017. The State conceded that four years had passed since the arrest warrant was issued against Crandle and, thus, that the length of the delay was presumptively prejudicial and triggered the examination of the remaining three Barker factors.

The State contended that Crandle's motion failed to address the reason for the delay and stated that the "1-year gap between [Crandle's arrest] and indictment is negligent delay due to an overburdened judicial system," which should be weighed "less heavily against the State." (Supp. C.13.) The State further argued that Crandle had withdrawn "his initial guilty plea and request for Youthful Offender treatment, and pled not guilty by reason of insanity on December 7, 2017," that the State was

prevented from trying the case while Crandle's mental evaluation was pending, and that Crandle was "eventually found competent to stand trial in this case on September 20, 2018." (Supp. C. 13.) Thus, the State claimed, that portion of the delay was a justified delay that should not be weighed against the State.

The State further maintained that, at the proceeding on September 20, 2018, the case was reset to June 13, 2019, but that the June 2019 proceeding date was reset at Crandle's request, which would also be a justified delay. According to the State, Crandle was committed to the Alabama Department of Mental Health "to be restored to competency," and on July 16, 2020, Crandle was still awaiting transport to the Alabama Department of Mental Health, which time could not be weighed against the State because the State "cannot try someone who is not deemed competent to stand trial." (Supp. C., at 14.) The State further claimed that Crandle's first assertion of his right to a speedy trial was on October 7, 2020, when he filed his motion to dismiss. Lastly, the State argued that Crandle's allegation claiming that he had been prejudiced by the delay was insufficient to show that the delay violated his rights.

On November 19, 2020, the circuit court held a hearing on Crandle's motion for speedy trial. The following transpired at the hearing:

> "THE COURT: Let the record reflect that the Court is well aware that Mr. Gregory Labarron Crandle has been in the Metro Jail for more than [four years,] because he was charged with capital murder.
>
> "Mr. Davidson was part of counsel in that case. I don't remember. Maybe co-counsel for some other Co-defendant, I don't know.
>
> "[Defense counsel]: Yes, sir, Judge.
>
> "THE COURT: We sent Mr. Crandle to be evaluated, and he is – we're still waiting to commit him to the Department of Mental Health because of his mental infirmity.
>
> "Now, Mr. Bergstrom filed this motion for speedy trial before he withdrew and the public defender got appointed.
>
> "The State takes the position that [it's] not willing to give up the assault charge, and I understand why the State takes the position that it is, but the Court recognizes that if Mr. Crandle ever regains his mental competency, he's going to be tried for capital murder, and, therefore, I'm going to grant the motion to dismiss the assault second charge over the State's objection because of the charges that are still facing Mr. Crandle if he regains mental competency. He's still committed to the Department of Corrections.
>
> "The Court has been monitoring this case every six months according to the rules of procedure because of this, and

> if he's ever restored to competency, he'll return and he'll be tried for capital murder.
>
> "So let it be written, so let it be done over the State's objection.
>
> "And you can put it in the order."

(R. 3-4.)

On November 19, 2020, the circuit court entered a written order granting Crandle's motion to dismiss the second-degree assault charge.

On appeal, the State argues that the circuit court erred by improperly granting Crandle's motion to dismiss without considering the Barker v. Wingo, 407 U.S. 514 (1972), factors. The State also contends that Crandle failed to present any evidence relating to any of the factors and that the record was sufficient to show that he did not and cannot show that he was actually prejudiced by the delay.

In Ex parte Walker, 928 So. 2d 259 (Ala. 2005), the Alabama Supreme Court explained:

> "An accused's right to a speedy trial is guaranteed by the Sixth Amendment to the United States Constitution and by Art. I, § 6, of the Alabama Constitution, 1901. As noted, an evaluation of an accused's speedy-trial claim requires us to balance the four factors the United States Supreme Court set

> forth in Barker: '[l]ength of delay, the reason for the delay, the defendant's assertion of [her] right, and prejudice to the defendant.' 407 U.S. at 530, 92 S.Ct. 2182 (footnote omitted). See also Ex parte Carrell, 565 So.2d at 105. 'A single factor is not necessarily determinative, because this is a "balancing test, in which the conduct of both the prosecution and the defense are weighed." ' Ex parte Clopton, 656 So.2d at 1245 (quoting Barker, 407 U.S. at 530, 92 S.Ct. 2182)."

928 So. 2d at 263.

This Court has previously held that, where the record does not affirmatively indicate that the trial court weighed each of the Barker factors, a remand is necessary for the circuit court "to make specific, written findings of fact as to each Barker factor with reference to the principles set forth by the Alabama Supreme Court in Ex parte Walker, [928 So. 2d 259 (Ala. 2005)]." State v. Robinson, 79 So. 3d 686 (Ala. Crim. App. 2011). See also State v. Tolliver, 171 So. 3d 94 (Ala. Crim. App. 2014); Murray v. State, 12 So. 3d 150 (Ala. Crim. App. 2007); Peterson v. State, 12 So. 3d 154 (Ala. Crim. App. 2007); State v. Stovall, 947 So. 2d 1149 (Ala. Crim. App. 2006).

In the present case, the record does not affirmatively show that the circuit court weighed each of the factors as required by Barker, supra, and

Ex parte Walker, supra. Here, the court held a hearing on Crandle's motion to dismiss; however, no evidence was presented and neither party presented arguments. Although the circuit court acknowledged at the hearing that Crandle had been in jail for "more than four years," the court stated that it was dismissing the instant case because Crandle was currently in jail awaiting commitment to the Department of Mental Health due to "mental infirmity," and that, if Crandle ever regained competency, he would still be incarcerated and face trial for a capital-murder charge. (R.3-4.) It is unclear how the fact that Crandle will face another charge if he regains his mental competency relates to any of the Barker factors in the present case. The circuit court's written order stated only that Crandle's motion to dismiss was granted, over the objection of the State. The record, therefore, is devoid of any indication of the circuit court's findings on the Barker factors. Consequently, the record before this Court is devoid of sufficient information to address the State's claim regarding whether the court's ruling on Crandle's motion to dismiss for violation of his right to a speedy trial was proper.

Therefore, we remand this case for the circuit court to make specific, written findings of fact as to each Barker factor with reference to the principles set forth by the Alabama Supreme Court in Ex parte Walker, supra. See generally Parris v. State, 885 So.2d 813 (Ala. Crim. App. 2001). If the circuit court determines that it needs to conduct an additional hearing to take additional evidence or to hear additional arguments, it may do so. On remand, the circuit court shall take all necessary action to see that the circuit clerk makes due return to this Court at the earliest possible time and within 56 days after the release of this opinion. The return to remand shall include the circuit court's specific, written findings of fact, a transcript of any additional hearings, and copies of any additional documents or evidence that may be submitted to the circuit court.

REMANDED WITH INSTRUCTIONS.

Windom, P.J., and Kellum, Cole, and Minor, JJ., concur.