

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2012 KA 1671

STATE OF LOUISIANA

VERSUS

JACOB MAURICE CRAWFORD

Judgment Rendered: MAY 06 2013

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On Appeal from the
22nd Judicial District Court
In and for the Parish of St. Tammany
State of Louisiana
Trial Court No. 421,223

The Honorable William J. Crain, Judge Presiding

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BEFORE: PARRO, WELCH, AND KLINE,¹ JJ.

¹ Judge William F. Kline, Jr., retired, serving *ad hoc* by special appointment of the Louisiana Supreme Court.

KLINE, J.

The defendant, Jacob Maurice Crawford, was charged by bill of information with possession of cocaine, a violation of La. R.S. 40:967(C). He pled not guilty and, following a jury trial, was found guilty as charged. The State filed a habitual offender bill of information. At the habitual offender hearing, the defendant, after admitting to the allegations in the habitual offender bill, was adjudicated a second-felony habitual offender and sentenced to eight years of imprisonment at hard labor. The defendant appealed and, in an unpublished decision, this court affirmed the defendant's conviction. However, because we found the trial court failed to advise the defendant of his right to remain silent at the habitual offender hearing, we vacated the habitual offender adjudication and sentence and remanded the matter for further proceedings. See State v. Crawford, 2010-0509 (La. App. 1 Cir. 9/10/10), 46 So. 3d 285, 2010 WL 3527532 (unpublished).

Subsequently, the defendant was arraigned again on his habitual offender bill. At the arraignment, the trial court informed the defendant that he had a right to a hearing to be tried as to the truth of the allegations in the bill and that he had the right to remain silent. The defendant denied the allegations. A few months later, a second habitual offender hearing was conducted. At the hearing, defense counsel objected to a hearing being conducted on the grounds that the State had gone beyond a reasonable amount of time to refile a habitual offender bill. The objection was overruled. The defendant was again adjudicated a second-felony habitual offender and sentenced to eight years of imprisonment at hard labor. The defendant now appeals his adjudication as a second-felony habitual offender. We affirm the habitual offender adjudication and sentence.

FACTS

On October 11, 2006, agents from the Aggressive Criminal Enforcement unit of the St. Tammany Parish Sheriff's Office entered a FEMA trailer in Slidell, Louisiana. The defendant was inside the trailer and consented to a search of the premises. One of the agents found a rock of crack cocaine under the table where the defendant had been seated.²

ASSIGNMENT OF ERROR

In his sole assignment of error, the defendant argues the trial court erred in adjudicating him a second-felony habitual offender. Specifically, the defendant contends the trial court erred in overruling defense counsel's objection to the State's delay in instituting habitual offender proceedings.

LAW AND ANALYSIS

Originally, the defendant was convicted, adjudicated a second-felony habitual offender, and sentenced all on the same day, September 17, 2009. This court's decision to vacate and remand was handed down on September 10, 2010. Almost thirteen months later, on October 5, 2011, the defendant was arraigned again on his habitual offender bill and informed of his right to remain silent. Three and one-half months later, on January 20, 2012, the new habitual offender hearing was held, and the defendant was adjudicated a second-felony habitual offender. Thus, the total time, from when this court handed down its decision remanding the matter to the trial court until the defendant was adjudicated again, was about sixteen months.

Accordingly, while the habitual offender hearing on January 20, 2012, did not take place until about sixteen months after we handed down our decision, the defendant was on notice as early as September 17, 2009, that the State had filed a

² For a full recitation of the facts, see **State v. Crawford**, 2010-0509 (La. App. 1 Cir. 9/10/10), 46 So. 3d 285, 2010 WL 3527532 (unpublished).

habitual offender bill of information against him. We note that the situation here is not one where a habitual offender bill was filed for the first time long after the defendant had been convicted and sentenced. As such, defense counsel was incorrect at the January 20, 2012 hearing when he argued that the State should not be allowed to refile the habitual offender bill because of the time that had passed. No new bill was, or needed to be, filed. The only habitual offender bill filed was the one filed the same day the defendant was convicted, and that had placed him on notice that the State would be pursuing sentencing enhancement. Moreover, our decision, in which we remanded the case so the State could have a rehearing on the allegations of the habitual offender bill, prolonged the entire process. As the prosecutor pointed out at the January 20, 2012 hearing,

Look, this is not refiled. This has always been in the record. I didn't refile anything. This has been in the record.

* * * * *

Your Honor, I would point out that this whole time that it was on appeal, it was the appellate court that said he wasn't properly advised of his rights on, on the multiple bill and that's the reason for this hearing today. The State had nothing to do, nor did the Court, have anything to do with the delay in time that passed on a multiple bill hearing.

The district attorney may file a habitual offender bill of information "at any time, either after conviction or sentence[.]" See La. R.S. 15:529.1(D)(1)(a). The supreme court in **State v. Muhammad**, 2003-2991 (La. 5/25/04), 875 So. 2d 45, 56, held that there is no bright-line deadline by which the habitual offender proceeding must be completed. Instead, since La. R.S. 15:529.1(D)(1)(a) does not prescribe a time within which the bill must be filed, the district attorney must file the habitual offender bill "within a reasonable time." See Muhammad, 875 So. 2d at 54. The determination of whether the hearing is held within a reasonable time hinges on the facts and circumstances of the specific case. **Muhammad**, 875 So. 2d at 55.

As a general matter, the United States Supreme Court has set forth four factors for courts to consider in determining whether a defendant's right to a speedy trial has been violated. Those factors are the length of the delay, the reasons for the delay, the accused's assertion of his right to speedy trial, and the prejudice to the accused resulting from the delay. **Barker v. Wingo**, 407 U.S. 514, 530-33, 92 S.Ct. 2182, 2192-93, 33 L.Ed.2d 101 (1972). While these factors are neither definitive nor dispositive in the context of a habitual offender proceeding, they are instructive. See Muhammad, 875 So.2d at 55. See also State v. Reaves, 376 So.2d 136 (La. 1979).

It is not clear from the record why there was an almost thirteen-month delay between the rendering of this court's decision in September of 2010 and the defendant's arraignment on October 5, 2011, on his habitual offender bill, during which he was informed of his right to remain silent. In any event, we do not find the State's filing of the habitual offender bill on the day the defendant was convicted to be unreasonable; nor do we find it unreasonable that the defendant was readjudicated a second-felony habitual offender and resentenced about sixteen months after our **Crawford** decision was handed down. See State v. Torres, 2005-260 (La. App. 5 Cir. 11/29/05), 919 So. 2d 730, 733-34, writ denied, 2006-0697 (La. 10/6/06), 938 So. 2d 65 (where, despite the fact that the defendant's habitual offender sentencing had occurred more than nine years after his convictions and after his original five-year sentence was completed, the habitual offender sentence was affirmed). See also State v. Dautart, 2007-15 (La. App. 5 Cir. 5/15/07), 960 So. 2d 1079, 1083-86.

There was no prejudice to the defendant resulting from any delay. On the day he was convicted of possession of cocaine, the defendant was made aware that the State would be filing a habitual offender bill of information. Further, there is nothing in the record before us that indicates any abusive or vindictive behavior by

the State. Thus, despite the delay in being adjudicated a habitual offender for a second time and being sentenced accordingly, the defendant's due process rights were not violated. See Muhammad, 875 So. 2d at 54-56.

**SENTENCE AND HABITUAL OFFENDER ADJUDICATION
AFFIRMED.**