

OFFICE OF THE
PROSECUTING ATTORNEY

08 FEB 22 AM 10:51

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,^{OHIO}
FRANKLIN COUNTY

Plaintiff,

-v-

RICHARD A. MONTGOMERY,

Defendant.

CASE NO. 96-CR-2767

JUDGE BESSEY

MOTION TO DISMISS

Now comes the Defendant, by and through counsel, and respectfully moves the Court for an Order dismissing the instant case against the Defendant as the prosecution of this case is in violation of O.R.C. § 2901.13, the Speedy Trial Clause of the Sixth Amendment, and the Due Process Clause of the Fourteenth Amendment. A Memorandum in support of Defendant's Motion to Dismiss is attached hereto and incorporated herein.

Respectfully submitted,



Jeffrey R. Davis (0064009)
Davis Law Offices Co., L.P.A.
523 South Third Street
Columbus, Ohio 43215
Tel: 614.228.0523
Fax: 614.448.4526
jrdavis@jrdavislaw.com
Attorney for Defendant

DAVIS LAW OFFICES CO., L.P.A.
523 SOUTH THIRD STREET
COLUMBUS, OHIO 43215
TEL: 614.228.0523
FAX: 614.448.4526
WWW.JRDAVISLAW.COM

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO

2008 FEB 22 AM 10:13

CLERK OF COURTS

MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS

A. PROCEDURAL BACKGROUND

On May 9, 1996, the Indictment was filed in the instant case alleging that the Defendant, Richard Montgomery, failed to appear at a probation revocation hearing scheduled for April 29, 1996, having been released upon a recognizance bond. *Exhibit A.* Along with this Indictment, the State requested a Warrant be issued, which was also filed by the Clerk on May 9, 1996. *Exhibit B.* At the request of the State, this warrant was issued to Mr. Montgomery's address at 345 Schuler Street, Newark, Ohio. *Id.* However, this warrant was issued to the Sheriff of Franklin County, not the Sheriff of Licking County, where Mr. Montgomery resided. *Id.* The record of this case with the Clerk of Courts reveals no notation nor return of such warrant. *Exhibit C.*

Mr. Montgomery continued to reside at the Schuler Street address for another 3 ½ years, until January, 2000, at which time he moved to his current address at 14485 Jackrun Road, Rockbridge, Ohio. Since 1996, Mr. Montgomery has lived openly in these communities and has continued to have repeated contact with the State: working, paying taxes, renewing his driver's license, etc. At no time did Mr. Montgomery seek to conceal himself. Nor would Mr. Montgomery have had any reason to do so, as he was not made aware of the existence of this charge and the warrant until July, 2007.

Mr. Montgomery was made aware of this charge only when, upon applying for Social Security after retirement due to a heart attack, he was informed by the personnel that a warrant existed for his arrest and that he would be denied benefits if he did not have it taken care of.

Mr. Montgomery immediately contacted an attorney who petitioned the court to have the probation warrant lifted and the *capias* set aside. The warrant was in fact lifted and the

Motion to Dismiss

underlying *capias* was set aside by Judge Hogan on July 18, 2007. *Exhibit D*. Further, the probation under which Mr. Montgomery was alleged to have absconded was terminated. *Id.* The warrant filed in this case was likewise recalled on December 13, 2007. *Exhibit C*.

B. LAW AND ARGUMENT

I. Prosecution is Barred Pursuant to O.R.C. § 2901.13

Section 2901.13(A) of the Ohio Revised Code states, in pertinent part, that: “[A] prosecution shall be barred unless it is commenced within the following periods after an offense is committed: (a) for a felony, six years.” Generally, “[a] prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation, or other process is issued whichever occurs first.” O.R.C. § 2901.13(E). In the instant case, the indictment alleging Failure to Appear, was filed well within the six year period. However, the return of an indictment is not controlling where, as here, there has been a complete lack of due diligence on the part of the state in commencing the prosecution on this Indictment.

Section 2901.13(E) further states that:

A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and exercise process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation, or other process, unless reasonable diligence is exercised to execute the same.

Here, despite the fact that Mr. Montgomery was living openly at the same address to which the warrant was issued for until January 2000, the State failed to make any effort to serve Mr. Montgomery and commence the prosecution. A review of the court record for this case reveals no return of service noted nor filed. Further, the Warrant is issued to the Sheriff of

Motion to Dismiss

Franklin County, not Licking County where Mr. Montgomery was residing. Since January, 2000, Mr. Montgomery has been openly residing at his current address in Rockbridge, Ohio, where he has been listed in the phone directory, been paying taxes, been renewing his driver's license, etc..

The burden is on the State to demonstrate that the prosecution has been commenced within the applicable statute of limitations and that reasonable diligence has been exercised in the service of process or warrant. State v. Climaco, Climaco, Seminatore, Lefkowitz & Garofoli (1999), 85 Ohio St. 3d 58, 1999 Ohio 408, 709 N.E.2d 1192, 1999 Ohio App. LEXIS 154; State v. King (1995), 103 Ohio App.3d 210, 658 N.E.2d 1138, 1995 Ohio App. LEXIS 1816 (10th App., Franklin); Movant respectfully asserts that the State cannot meet its burden as it appears that no effort, beyond the issuance of a warrant to the wrong jurisdiction was made in this case.

II. Prosecution is Barred Under the Speedy Trial Clauses of the United States Constitution and the Ohio Constitution.

Pursuant to the Sixth Amendment of the U.S. Constitution, “[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been commence.” Section 10, Article I of the Ohio Constitution similarly guarantees the right to a speedy trial, and these rights have been found to be coextensive. State v. Walker (10th App, Franklin 2007) 2007 Ohio 4666, 2007 Ohio App. LEXIS 4208, citing State v. Bayless (10th App., Franklin 2002) 2002 Ohio 5791, at P10, appeal not allowed (2003), 98 Ohio St.3d 1480, 2003 Ohio 974, 784 N.E.2d 712.

The right to speedy trial is fundamental to the American justice system, Klopper v. N. Carolina (1967), 386 U.S. 213, 87 S.Ct. 988, 18 L.Ed.2d 1; Smith v. Hooey, (1969) 393 U.S. 374, 89 S.Ct. 575, 21 L.Ed.2d 607; Barker v. Wingo (1972), 407 U.S. 514, 92 S.Ct. 2182, 33

L.Ed.2d 101. It is held “essential to protect at least three basic demands of criminal justice in the Anglo-American legal system: ‘(1) to prevent undue and oppressive incarceration prior to trial, (2) to minimize anxiety and concern accompanying public accusation and (3) to limit the possibilities that long delay will impair the ability of an accused to defend himself.’” Hooey, at 377-378, quoting United States v. Ewell, 383 U.S. 116, 86 S.Ct. 773, 15 L.Ed2d 627, cited in Walker, at P13.

In addressing challenges to prosecutions under the Speedy Trial Clause, the Supreme Court rejected an inflexible bright-line standard, and instead applied “a balancing test, in which the conduct of both the prosecution and the defendant are weighed.” Barker, at 530. In applying this test, the Court identified several factors which courts should consider: the length of the delay in prosecution; the reason for the delay in prosecution; the defendant’s assertion of his or her rights; and any prejudice to the defendant. Id., see also, Doggett v. United States (1992), 505 U.S. 647, 112 S.Ct. 2686, 120 L.Ed.2d 520 (discussing the inquiries under Barker).

The first, and “triggering” factor in the Barker test is the length of the delay. Id. “Until there is some delay which is presumptively prejudicial, there is no necessity for further inquiry into the other factors which go into the balance.” Id., at 530. This is to be determined on a case-by-case basis as “the length of the delay that will provoke such an inquiry is necessarily dependent upon the peculiar circumstances of the case. To “trigger” this analysis, it must be alleged that the interval between accusation and trial has crossed the threshold dividing ordinary from ‘presumptively prejudicial’ delay.” Id. While this is dependent upon the facts of the case, it has been generally found that post-accusation delays of 1 year, to be “presumptively prejudicial”. Doggett, at 652, fn. 1, citing 2 W.Lafave & J. Israel, *Criminal Procedure* § 18.2, p. 405 (1984).

Once this threshold showing is made, the court must then consider, as one factor among others, the “extent to which the delay stretches beyond the bare minimum needed to trigger judicial examination of the claim.” Barker, at 533-34. This is significant in that this factors into the question of prejudice to the defendant, as the presumption that pretrial delay has prejudiced a defendant intensifies with the length of the delay. Doggett, at 652.

Here, the delay in prosecution of Mr. Montgomery was in excess of 11 years, grossly beyond the threshold for a finding of “presumptive prejudice” to the Defendant.

The next factor to be considered under the Barker test is the reason for the delay in prosecution. Here, it is clear that the State was grossly negligent in seeking to commence this prosecution, which must also weigh against the State. In considering the effect of such negligence on this balancing test, the Court in Barker specifically found that:

“different weights [are to be] assigned to different reasons for delay” . . . Although negligence is obviously to be weighted more lightly than a deliberate attempt to harm the accused defense, it still falls on the wrong side of the divide between acceptable and unacceptable reasons for delaying a criminal prosecution once it has begun. And such is the nature of the prejudice presumed that the weight we assign to official negligence compounds over time as the presumption of evidentiary prejudice grows. Thus, our toleration of such negligence varies inversely with its protractedness, . . . and its consequent threat to the fairness of the accused’s trial. Condoning prolonged and unjustifiable delays in prosecution would both penalize many defendant’s for the state’s fault and simply encourage the government to gamble with the interests of criminal suspects assigned a low prosecutorial priority. The Government, indeed, can hardly complain too loudly, for persistent neglect in concluding a criminal prosecution indicates an uncommonly feeble interest in bringing an accused to justice; the more weight the Government attaches to securing a conviction, the harder it will try to get it.

Doggett, at 656-57, citing Barker.

Here, it is clear that Mr. Montgomery's case was not a high priority for the State given the lack of effort on the part of the State in pursuing this case. The complete failure of the State to attempt service of the warrant for over 11 years constitutes a complete lack of diligence and utter negligence which is compounded by the length of the delay and the fact that Mr. Montgomery was living openly in the central Ohio area.

The third factor to be considered under this analysis is the accused's invocation of the right to speedy trial. In the instant case, Mr. Montgomery was not aware of the existence of the Indictment or Warrant until he was notified by personnel at the Social Security Office that there was a warrant for his arrest. Upon this realization, Mr. Montgomery contacted an attorney and the probation warrant was set aside. Additionally, the court withdrew the *capias* upon which this Indictment is based, and terminated Mr. Montgomery's probation. Defendant now, with the assistance of counsel, asserts his right to a speedy trial. The fact that Mr. Montgomery was not aware of the initiation of this matter, and thus could not assert his rights thereunder does not prevent Mr. Montgomery from now asserting his fundamental rights. Barker, at 526 (rejecting the demand-waiver rule concerning invocation of speedy trial rights, in favor of case-by-case review of factors and circumstances).

The final factor to be considered under the Barker test is the prejudice suffered by the defendant as the result of the delay in prosecution. This prejudice includes the types of harm previously cited in State v. Hooey. 393 U.S. at 377-78. Of these forms of prejudice, "the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system." Doggett, at 530, citing Barker, at 532.

As in Doggett, it is this form of prejudice which is asserted, since, as in Doggett, the Defendant was not subjected to pretrial incarceration, nor was he aware of unresolved charges

against him. It is clear that the passage of over 11 years from the filing of the Indictment in this case to possible trial in this matter has severely and irreparably prejudiced Mr. Montgomery in the defense of his case.

The loss of possible defenses, both procedural and substantive; the loss of witnesses with actual recollection of the events; the potential loss of documentary evidence; all weigh heavily against the Defendant's ability to obtain a fair trial.

As it is impossible to prove a negative, or to know what defenses could have been present had the State diligently proceeded with prosecution:

Consideration of prejudice is not limited to the specifically demonstrable, . . . affirmative proof of particularized prejudice is not essential to every speedy trial claim. Moore [v. Arizona] 414 U.S. 25, 38 L.Ed.2d 183, 94 S.Ct. 188], Barker, supra, at 533. Barker explicitly recognized that impairment of one's defense is the most difficult form of speedy trial prejudice to prove because time's erosion of exculpatory evidence and testimony "can rarely be shown." 407 U.S. at 532. And though time can tilt the case against either side, . . . one cannot generally be sure which side has been prejudiced more severely. Thus, we generally have to recognize that excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove or, for that matter, identify. While such presumptive prejudice cannot alone carry a Sixth Amendment claim without regard to the other Barker criteria, . . . it is part of the mix of relevant facts, and its importance increases with the length of the delay.

Doggett at 654.

Given the difficulty often encountered in proving specific, particular prejudices to the defense after a lengthy delay in prosecution, the Court in Doggett looked at the other factors in the Barker test, most particularly, the length of the delay in prosecution and the reason for such a delay. There, the extreme length of the delay, and the reason for the delay - negligence and lack of diligence on the part of the state - weighed heavily in the Court's decision:

Motion to Dismiss

To be sure, to warrant granting relief, negligence unaccompanied by particularized trial prejudice must have lasted longer than negligence demonstrably causing such prejudice. But even so, the Government's egregious persistence in failing to prosecute Doggett is clearly sufficient. The lag between Doggett's indictment and arrest was 8 ½ years, and he would have faced trial 6 years earlier than he did but for the Government's inexcusable oversights. The portion of the delay attributable to the Government's negligence far exceeds the threshold needed to state a speedy trial claim; indeed we have called shorter delays "extraordinary." See Barker, supra, at 533. When the Government's negligence thus causes delay six times as long as that generally sufficient to trigger judicial review, . . . and when the presumption of prejudice, albeit unspecified, is neither extenuated, as by the defendant's acquiescence, . . . nor persuasively rebutted, the defendant is entitled to relief.

Doggett, at 657-58.

In the instant case, the State exhibited gross negligence and a complete lack of diligence in failing to serve Mr. Montgomery with the Warrant and Indictment for over 11 years. This far exceeds the "presumptive prejudice" threshold set by the Court and even the delay for which the Court granted relief in Doggett.

Given that here, as in Doggett, the State's negligence has caused a delay in prosecution that would clearly trigger judicial review, and the presumption of prejudice is neither extenuated, as by the defendant's acquiescence, nor persuasively rebutted, this Defendant is also entitled to relief.

III. Prosecution is Barred by the Due Process Clause of the Fourteenth Amendment

The Due Process Clause of the 14th Amendment provides that no State may "deprive any person of life, liberty, or property, without due process of law. This includes more than the assurance of a fair process, encompassing "a substantive sphere as well, 'barring certain governmental actions regardless of the procedures used to implement them.'" County of

Sacramento v. Lewis (1998), 523 U.S. 833, 840, 118 S.Ct. 1708, 140 L.Ed.2d 1043. This “substantive” due process includes the protection, albeit in limited circumstances, against oppressive delay. United States v. Lovasco (1977), 431 U.S. 783, 97 S.Ct. 2044, 52 L.Ed.2d 752, rehearing denied, 434 U.S. 881, 98 S.Ct. 242, 54 L.Ed.2d 164, citing U.S. v. Marion (1971), 404 U.S. 307, 313 S.Ct. 455, 30 L.Ed.2d 468.

In considering such a claim, the court is to consider “the reasons for the delay as well as the prejudice to the accused. Lovasco at 790. In considering the such a claim, it should be remembered that: “[t]he touchstone of due process is protection of the individual against arbitrary action of the government, . . . whether the fault lies in the a denial of fundamental procedural fairness, . . . or in the exercise of power without any reasonable justification in the service of a legitimate governmental objective,” and that substantive due process is violated when such action of the government “can properly be characterized as arbitrary, or conscience shocking, in a constitutional sense.” Lewis, at 845-847.

Here, the delay of over 11 years in serving the Indictment and Warrant upon Mr. Montgomery is “presumptively prejudicial.” Barker, supra., Doggett, supra. As stated previously, the delay in prosecution of this case was caused by the gross negligence and lack of diligence on the part of the State in seeking to commence this action by service of the Indictment and Warrant.

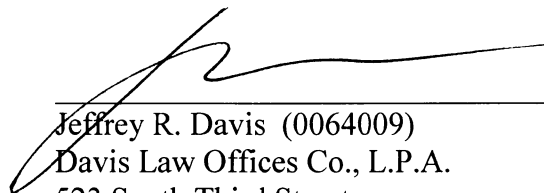
Such a prejudicial delay, based solely on the nonfeasance of the State, must be said to be arbitrary and shocking to the conscience. To have an eleven year old charge and warrant be discovered while the Defendant is applying for Social Security and brought against the Defendant when he, and other potential witnesses, can likely not recall the facts and circumstances leading to the allegations; to reinsert the long arms of the State into the life of the

Defendant after over a decade of law-abiding, to seek a charge and punishment against the Defendant even though the underlying basis for the charge has been withdrawn; all of these “shock the conscience” and “interferes with rights implicit in the concept of ordered liberty, and, thus, violate the Defendant’s Due Process rights. U.S. v. Salerno (1987), 481 U.S. 739, 746, 107 S.Ct. 2095, 95 L.Ed.2d 697.

C. CONCLUSION

As the State has failed to commence this prosecution against the Defendant by exercising reasonable diligence in seeking to serve the Defendant with the Indictment and Warrant filed herein, this prosecution is time-barred by the applicable statute of limitations as set forth in R.C. § 2901.13. Further, the “presumptive prejudice” suffered by the Defendant, when considered in conjunction with the extreme delay, the gross negligence on the part of the State in failing to even attempt service of process in this case, and the assertion by the Defendant of his constitutional rights, clearly demonstrate that the prosecution of this case after such and unjustifiable delay violates the Defendant’s Speedy Trial and Due Process rights.

Respectfully submitted,




Jeffrey R. Davis (0064009)
Davis Law Offices Co., L.P.A.
523 South Third Street
Columbus, Ohio 43215
Tel: 614.228.0523
Fax: 614.448.4526
jrdavis@jrdavislaw.com
Attorney for Defendant

Motion to Dismiss

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Dismiss was served upon Ms. Nancy A. Moore, Esq., at the Franklin County Prosecutor's Office, 373 South High Street, 14th Floor, Columbus, Ohio 43215, by hand-delivery, on February 22, 2008.



Jeffrey R. Davis (0064009)
Davis Law Offices Co., L.P.A.
Attorney for Defendant

DAVIS LAW OFFICES CO., L.P.A.
523 SOUTH THIRD STREET
COLUMBUS, OHIO 43215
TEL: 614.228.0523
FAX: 614.448.4526
WWW.JRDAVISLAW.COM

Case No.

96CR 05-2767

State of Ohio,
Franklin County, ss:

INDICTMENT FOR: Failure to Appear on
Recognizance (2937.29 R.C.) (-) (1 Count);
(Total: 1 Count)

In the Court of Common Pleas, Franklin County, Ohio, of
the Grand Jury term beginning January fifth, in the year of our Lord, one thousand
nine hundred ninety-six.

Count One

The Jurors of the Grand Jury of the State of Ohio, duly selected,
impaneled, sworn, and charged to inquire of crimes and offenses committed within
the body of Franklin County, in the State of Ohio, in the name and by the authority
of the State of Ohio upon their oath do find and present that Richard A. Montgomery
late of said County, on or about the 29th day of April in the year of our Lord, one
thousand nine hundred ninety-six within the County of Franklin aforesaid, in
violation of section 2937.29 of the Ohio Revised Code, having been released on his
own recognizance, did fail to appear in the Franklin County, Ohio Common Pleas
Court as required by such recognizance, the said release having been in connection

ON COMPUTER

DAVIS LAW OFFICES CO., L.P.A.

EXHIBIT

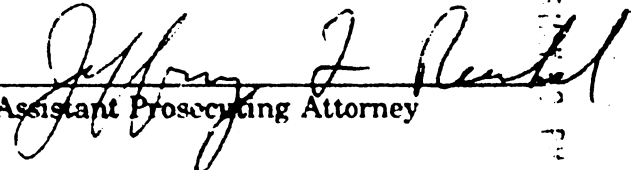
A

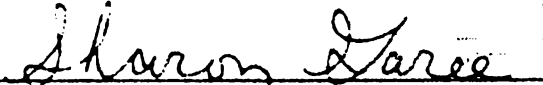
24573113

with a charge of the commission of a felony, to wit: Forgery, as provided in section 2937.99 of the Ohio Revised Code, contrary to the statute in such cases made and provided and against the peace and dignity of the State of Ohio.

MICHAEL MILLER
Prosecuting Attorney
Franklin County, Ohio

A TRUE BILL


Assistant Prosecuting Attorney


Foreperson, Grand Jury

State of Ohio v. Richard A. Montgomery
Address: 345 Schuler Street - Newark, OH 43055
DOB: 2/22/45
Sex/Race: Male ?
Date of Arrest: - -
SSN: 284-40-3325
Police Agency: - -
Municipal Reference: - -
Count 1: Failure to Appear on Recognizance
2937.29 -

24573114

Case No.

MAY 9 11 05

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

24573-11

State of Ohio, :
Plaintiff. :

vs. : Case No.

Richard A. Montgomery :
DOB: 2/22/45 :
SSN: 284-40-3325 :
Defendant. :

96CR 05-2767

PROSECUTING ATTORNEY'S REQUEST
FOR ISSUANCE OF WARRANT
UPON INDICTMENT

TO THE CLERK OF THE COURT OF COMMON PLEAS:

Richard A. Montgomery has been named a defendant in an indictment returned by the Grand Jury.

Pursuant to Rule 9, Ohio Rules of Criminal Procedure, the undersigned requests that you or a deputy clerk forthwith issue a warrant to an appropriate officer and direct him to execute it upon the above named defendant at the following address: 345 Schuler Street - Newark, OH 43055, or any place within this state.

MICHAEL MILLER
PROSECUTING ATTORNEY
Franklin County, Ohio

Jeffrey J. Beachel
Assistant Prosecuting Attorney
Hall of Justice
369 South High Street
Columbus, Ohio 43215
614/462-3555

ON
DAVIS LAW OFFICES CO., L.P.A.
EXHIBIT
B

JESSE D. ODDI
CLERK OF THE FRANKLIN COUNTY COMMON PLEAS COURT, COLUMBUS, OHIO 43215
CRIMINAL DIVISION

THE STATE OF OHIO,

PLAINTIFF,

VS.

RICHARD A. MONTGOMERY,

DEFENDANT.

24573 10

96 CR 2767

CASE NUMBER

96 MAY -9 PM 4: 12
CLERK OF COURTS
JESSE D. ODDI

***** WARRANT ON INDICTMENT - INFORMATION (RULE 9) *****
FORM X1

RICHARD A. MONTGOMERY
345 SCHULER ST
NEWARK, OH 43055-0000

- S/R: M/X
- DOB: 02/22/45
- SSN: 284-40-3325

TO FRANKLIN COUNTY SHERIFF; (OFFICER AUTHORIZED TO EXECUTE A WARRANT)

AN (X) INDICTMENT () INFORMATION, A COPY OF WHICH IS ATTACHED HERETO,
HAS BEEN FILED IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS CHARGING

RICHARD A. MONTGOMERY (DEFENDANT) WITH:

2937.29

XX FAIL TO APK ON RECOG

RECEIVED OF
96 MAY -9 PM 1: 27
CLERK OF COURTS

*** DESCRIBE THE OFFENSE(S) AND STATE THE NUMERICAL ***

*** DESIGNATION OF THE APPLICABLE STATUTE ***

TOTAL 1 COUNTS.

YOU ARE ORDERED TO ARREST RICHARD A. MONTGOMERY
AND BRING HIM BEFORE SAID COURT WITHOUT UNNECESSARY DELAY.

SPECIAL INSTRUCTIONS TO EXECUTING OFFICER: _____

B. Furbee
DEPUTY CLERK,
COMMON PLEAS COURT
FRANKLIN COUNTY

INDICT

CASE: 96 CR 2767 01 O/P/B: FILING DATE: OPR CAT: SPEC CAT:
2937 -29 - - FAIL TO APR ON RECOG

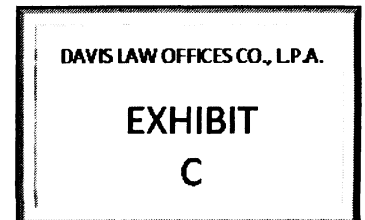
NAME: RICHARD A. MONTGOMERY ASSIGNED LOCATION: 8D

CASE STATUS: LEGAL: REA FINANCL: CHARGE STATUS: LEGAL: REA FINANCL:

LINE #: FUNCTION: (1 - INQUIRY, 4- IMAGE)

DATE	SUB#	ACTN	DESCRIPTION	RED LINE#	= IMAGE	...MORE
01 020608	0003	9279C	ORIG COPY HEAR NOTC	8D 032608	0900 AM R1	2
02 020608	0002	9279C	ORIG COPY HEAR NOTC	8D 032608	0900 AM R1	1
03 020608	0002	8431	WAIVR RGHT SPEEDY TR			
04 020608	0001	9279C	ORIG COPY HEAR NOTC	8D 032608	0900 AM R1	3
05 020608	0001	2355	CONTINUANCE ORDER	8D 032608	0900 AM R1	020508 0900 AM
06 020508	0001	7740	DISCOVERY - REQUEST	D		
07 012508	0005	7720	BILL OF PARTIC-REQ	D		
08 012508	0004	7777	NOTC USE EVID-REQ	D		
09 012508	0003	7740	DISCOVERY - REQUEST	D		
10 012508	0002	0496	APTMNT OF PRIVT CNSL	64009	D	
11 012508	0001	1936	ATTY WITHDRWAL ORDER			
12 012408	0001	9925	CRIM PRE-TRIAL STMNT			

OPERATOR ID: GU44



INDICT

CASE: 96 CR 2767 01 O/P/B: FILING DATE: OPR CAT: SPEC CAT:
2937 -29 - - FAIL TO APR ON RECOG

NAME: RICHARD A. MONTGOMERY ASSIGNED LOCATION: 8D

CASE STATUS: LEGAL: REA FINANCL: CHARGE STATUS: LEGAL: REA FINANCL:

LINE #: FUNCTION: (1 - INQUIRY, 4- IMAGE)

DATE	SUB#	ACTN	DESCRIPTION	RED LINE#	=	IMAGE	...MORE
01 010208	0006	9279C	ORIG COPY HEAR NOTC	8D 020508		0900 AM T 1	
02 010208	0005	9279C	ORIG COPY HEAR NOTC	8D 020508		0900 AM T 2	
03 010208	0004	9279C	ORIG COPY HEAR NOTC	8D 020508		0900 AM T 3	
04 010208	0003	9279C	ORIG COPY HEAR NOTC	8D 012308		0830 AM PT 1	
05 010208	0002	9279C	ORIG COPY HEAR NOTC	8D 012308		0830 AM PT 2	
06 010208	0002	7998	HEAR/EVENT SCHED'D	8D 020508		0900 AM T	
07 010208	0001	9279C	ORIG COPY HEAR NOTC	8D 012308		0830 AM PT 3	
08 010208	0001	7998	HEAR/EVENT SCHED'D	8D 012308		0830 AM PT	
09 122707	0001	6850	ASSGN ASST PROS ATTY	42422	P		
10 122007	0001	7023	WARRANT RTRND-NOT EX	00 05			
11 121407	0008	7969	READ OF INDICT WAIVD				
12 121407	0007	9850C	JUDGE ASSIGN - ORIG			8D	

OPERATOR ID: GU44

YI21

CASE ACTION INQUIRY

Document hosted at JDSUPRA™

<http://www.jdsupra.com/post/documentViewer.aspx?fid=2196fc1f-1424-4fa8-bcab-e967f599f9e7>

INDICT

CASE: 96 CR 2767 01 O/P/B: FILING DATE: OPR CAT: SPEC CAT:
 2937 -29 - - FAIL TO APR ON RECOG

NAME: RICHARD A. MONTGOMERY ASSIGNED LOCATION: 8D

CASE STATUS: LEGAL: REA FINANCL: CHARGE STATUS: LEGAL: REA FINANCL:

LINE #: FUNCTION: (1 - INQUIRY, 4- IMAGE)

DATE	SUB#	ACTN	DESCRIPTION	RED LINE#	= IMAGE	...MORE
01	121407	0006	1821	APPT	ATTY FEE-\$25	
02	121407	0005	0496	APTMNT	OF PRIVT CNSL 69002 D	
					NARRATIVE - SYS GEN APPEARANCE WITHDRAWN	
04	121407	0004	5800	AFFIDAVIT	INDIGENCY	
05	121407	0003	8883	CHANGE	OF ADDRESS	
06	121407	0002	6005	DEFT	RECGNZD-RECOG 0.00 1000.00 0001	
07	121407	0002	4850	WVR	DFNDT AT ARRAIGN	
08	121407	0001	0005	BOND	SET RECOGNIZANC 1000.00 0001 N	
09	121407	0001	9950	STRIKE	SCHED DATE 1B 122807 0100 PM	
10	121307	0002	0023	WARRANT	- SET ASIDE	
11	121307	0001	7022	WARRANT	RECALLED 05	
12	121307	0001	7991	HEAR/ARRAIGN	SCHED'D 1B 122807 0100 PM A	
					NARRATIVE - SYS GEN ACTION HAS BEEN STRICKEN	

OPERATOR ID: GU44

YI21

CASE ACTION INQUIRY

INDICT

CASE: 96 CR 2767 01 O/P/B: FILING DATE: OPR CAT: SPEC CAT:
2937 -29 - - FAIL TO APR ON RECOG

NAME: RICHARD A. MONTGOMERY ASSIGNED LOCATION: 8D

CASE STATUS: LEGAL: REA FINANCL: CHARGE STATUS: LEGAL: REA FINANCL:

LINE #: FUNCTION: (1 - INQUIRY, 4- IMAGE)

DATE	SUB#	ACTN	DESCRIPTION	RED LINE#	= IMAGE
01 050996	0005	7120	WARRANT ISSUED-ADDR	4	
			NARRATIVE - SYS GEN	RETURNED	- NOT EXECUTED

03 050996 0004 7020 WARRANT-PROS REQUEST 00 01 01

04 050996 0003 6100 INDICTMENT FILED

05 050996 0002 9802C 2949.091 FEE ASSESS 11.00

06 050996 0001 9801C 2743.70 FEE ASSESSED 30.00

OPERATOR ID: GU44

FRANKLIN COUNTY COMMON PLEAS COURT
CRIMINAL CASE PROCESSING SHEET

STATE OF OHIO

Richard Montgomery
DEFENDANT

85CR 584

55436007

CASE NO.

PLEA TAKEN OR TRIAL CONCLUDED on _____

PLEA OF GUILTY to _____

NOLLE PROSEQUI _____

FOUND GUILTY of _____

FOUND NOT GUILTY of _____

SENTENCING DATE _____ PSI Ordered _____ POST _____ CBCF _____ OTHER _____

OTHER DISPOSITION

Evaluate for _____ Diversion _____ Competency _____ Judicial Release
_____ Treatment in Lieu _____ Sanity at the time of offense _____ Hearing Held
_____ Granted
Other _____ Denied

Continue for _____ Bond Hearing _____ Hearing _____ H B 180 Hearing
_____ Trial (per Entry) _____ Sentencing

DATE _____

BF & CAPIAS _____ for failure to appear _____ trial _____ pre-trial _____ to be set aside

BOND HEARING

NO CHANGE _____ REPORTING _____
APPEARANCE \$ _____ WORK RELEASE _____
CASH/PROPERTY/SURETY \$ _____ HOUSE ARREST _____
RECOG \$ _____ DRUG SCREENS _____
UNSEC APP \$ _____
TOTAL \$ _____

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2007 JUL 18 PM 1:14
CLERK OF COURTS

OTHER *Set aside capias + absconder
warrant*
Prosecuting Attorney _____

ON COMPLAINT

COMMUNITY CONTROL REVOCATION HEARING

1st Hearing Set _____ Held _____ Probable Cause stipulated/found
2nd Hearing Set _____ Held _____ Violations stipulated/found
_____ Community Control Terminated _____ Community Control Restored new sanction(s) imposed
_____ Community Control Revoked, Prison or Jail Sentence Imposed (see attached Disposition Sheet)
Other _____

Jail Time Credit _____

SPECIAL INSTRUCTIONS TO CLERK/SHERIFF/OTHER: _____

D. Hogan

JUDGE

7-18-07

DATE

Original Clerk of Courts, Copies Probation Dept Sheriff

DAVIS LAW OFFICES CO., L.P.A.
EXHIBIT
D

JOHN O'GRADY
CLERK OF THE FRANKLIN COUNTY COMMON PLEAS COURT, COLUMBUS, OHIO 43215
CRIMINAL DIVISION

THE STATE OF OHIO,
PLAINTIFF,

VS.

RICHARD A. MONTGOMERY,
DEFENDANT.

55421F03

85 CR 584
CASE NUMBER

FILED
COMMON PLEAS COURT
FRANKLIN CO, OHIO
2007 JUL 18 PM 1:16
CLERK OF COURTS

**** CAPIAS RECALLED ****

STATE OF OHIO
FRANKLIN COUNTY, SS
TO THE SHERIFF OF FRANKLIN COUNTY

RICHARD A. MONTGOMERY

SET ASIDE

~~CONFIDENTIAL~~

JUL 18 PM 1:03

JOHN O'GRADY
CLERK OF COURTS

[Signature]
DEPUTY CLERK

DATE: 07/18/07