

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT**

STATE OF IDAHO

Plaintiff,

v.

LORI NORENE VALLOW aka LORI
NORENE VALLOW DAYBELL,

Defendants.

Case No. CR22-21-1624

**MEMORANDUM DECISION and
ORDER GRANTING STATE'S
MOTION TO CONTINUE TRIAL**

The State filed its Motion to Find Good Cause to Continue Trial and Prevent Improper Severance on May 2, 2022, in Defendant Lori Norene Vallow Daybell's case, requesting the Court find good cause to continue Defendant's currently scheduled October 2022 jury trial. Defendant filed a response to the State's motion. Having fully considered the Parties' briefing and oral arguments presented in a hearing on May 19, 2022, the Court orders as follows.

I. PROCEDURAL BACKGROUND

On May 25, 2021, a Fremont County Grand Jury returned an Indictment charging Defendant Lori Norene Vallow Daybell as a co-conspirator with Chad Guy Daybell ("Daybell") in the commission of several crimes—including two counts of first-degree murder.¹ Before Defendant could be arraigned in district court, pursuant to Idaho Code § 18-212, this Court found Defendant was legally incompetent to stand trial and ordered her commitment to DHW for care and restorative treatment.² Accordingly, on June 9, 2021, the Court entered an order staying her case pending her commitment for restoration treatment. On April 11, 2022, Defendant was found

¹ INDICTMENT. CR22-21-1624. May 25, 2021.

² The original order for commitment was filed in Fremont County Case CR22-20-838. *See* ORDER STAYING CASE. Fremont County Case No. CR22-21-1624. June 9, 2021.

competent and fit to proceed to trial. This Court lifted the stay of her case and ordered her to appear for arraignment on April 19, 2022. During arraignment, the Court advised Defendant of her rights and subsequently scheduled her trial for October 11, 2022.³ On May 2, 2022, the State filed a motion requesting the Court to continue Defendant's trial to January 9, 2023, to coincide with the setting in alleged co-conspirator Daybell's jury trial, and in order to avoid an improper severance of the co-conspirators' cases. On May 12, 2022, Defendant filed a response to the State's motion, stating that she did not waive her right to a speedy trial, and that she understood the continuance would provide her defense team additional time to prepare her defense. On May 19, 2022, the Court heard the parties in oral argument.

II. LEGAL STANDARD

Criminal defendants are guaranteed the right to a speedy public trial under the Sixth Amendment to the United States Constitution and under Article I, section 13 of the Idaho Constitution. In Idaho, these constitutional provisions have been supplemented by legislation that sets specific time limits within which a criminal defendant must be brought to trial. *See* I.C. § 19-3501 (2000); *see also Schrom v. Cramer*, 76 Idaho 1, 275 P.2d 979 (1954). Indeed, the operative statute was enacted in 1864 while Idaho was still a territory and was in force and effect at the time of the adoption of our constitution. *See id.* at 5, 275 P.2d at 981. The current version of Idaho Code section 19-3501 states:

The court, unless good cause to the contrary is shown, must order the prosecution or indictment to be dismissed, in the following cases:

1. When a person has been held to answer for a public offense, if an indictment or information is not found against him and filed with the court within six (6) months from the date of his arrest.
2. If a defendant, whose trial has not been postponed upon his application, is not brought to trial within six (6) months from the date that the indictment or information is filed with the court.
3. If a defendant, charged with a misdemeanor offense, whose trial has not been postponed upon his application, is not brought to trial

³ Defendant's alleged co-conspirator, Chad Guy Daybell ("Daybell") previously had filed a motion to sever the cases. This Court denied that motion, stating that the defendants were properly joined. Daybell's trial was scheduled for January 9, 2023, which scheduling occurred during the time Defendant's case had been stayed while she was committed for restorative treatment.

within six (6) months from the date that the defendant enters a plea of not guilty with the court.

Thus, under I.C. § 19–3501, criminal defendants are given additional protection beyond what is required by the United States and Idaho Constitutions. *See State v. Brooks*, 109 Idaho 726, 728, 710 P.2d 636, 638 (Ct.App.1985). The statute mandates that unless the State can demonstrate “good cause” for a delay greater than six months, the court must dismiss the case.

State v. Clark, 135 Idaho 255, 257–58, 16 P.3d 931, 933–34 (2000).

Thus, the Defendant is afforded both constitutional and statutory protections as they relate to her right to a speedy trial in this case. “[A]ny inquiry into a speedy trial claim necessitates a functional analysis of the right in the *particular context of the case*.”⁴ As Justice Powell, writing for the Court in *Barker v. Wingo* explained:

The right of a speedy trial is necessarily relative. It is consistent with delays and depends upon circumstances. It secures rights to a defendant. It does not preclude the rights of public justice.⁵

A fact-specific inquiry is necessary to assess the particular context for any case where a delay has, or is anticipated to, frustrate an individual’s right to a speedy trial in order to determine whether good cause exists. “Whether there was an infringement of Clark’s statutory right to a speedy trial presents a mixed question of law and fact. The Court will defer to the [lower court’s] findings of fact if supported by substantial and competent evidence. *See McNelis v. McNelis*, 119 Idaho 349, 351, 806 P.2d 442, 444 (1991).” *State v. Clark*, 135 Idaho 255, 257, 16 P.3d 931, 933 (2000). “Good cause means that there is a substantial reason that rises to the level of a legal excuse for the delay. [...] Because there is not a fixed rule for determining good cause for the delay of a trial, the matter is initially left to the discretion of the trial court.” *State v. Clark*, 135 Idaho 255, 260, 16 P.3d 931, 936 (2000) (citations omitted).

⁴ *Barker v. Wingo*, 470 U.S. at 522, 92 S. Ct. at 2188 (emphasis added).

⁵ *Id.* (citing *Beavers v. Haubert*, 198 U.S. 77, 87, 25 S. Ct. 573, 576, 49 L.Ed.2d 950 (1905)).

Under I.C. § 19–3501, “where there is ‘good cause’ for the failure to try the accused within the applicable statutory period, the delay is generally not violative of the accused's speedy trial rights.” *See* 22A C.J.S. *Criminal Law* § 604 (1989). Finally, “the State bears the burden to demonstrate good cause for a failure to bring a defendant to trial within the six-month limit.” *State v. Clark*, 135 Idaho at 258.

III. ANALYSIS

The State has argued that good cause exists in this case to extend the statutory six-month limitation for Defendant’s trial, urging the Court to schedule the trial concurrently with Daybell’s January, 2023 trial. The Court must ascertain whether doing so is justified by good cause and would not deprive Defendant of her constitutional and statutory speedy trial rights. Thus, the Court considers the mixed question of fact and law in determining whether the State has demonstrated by substantial and competent evidence that the delay here is warranted.

The grand jury issued their Indictment in this case on May 24, 2021, and it was filed on May 25, 2021, charging Defendant with the commission of several crimes. Thus, the Indictment was timely filed pursuant to I.C. § 19-3501(1). Thereafter, there was a substantial delay in bringing the Defendant to appear for arraignment due to the I.C. § 18-212 stay in the case. The Court therefore considers whether that delay violated I.C. § 19-3501(2), which requires trial within six months from the date the Information is filed, if the trial has not been postponed by application of the Defendant.

Idaho Code § 19-3501 creates an exception when a defendant’s trial is postponed by their own application. Defendant’s attorney of record filed a request for this Court to order Defendant to undergo a mental health evaluation in a related case prior to the filing of the indictment in the instant case. On June 9, 2021, following an evaluation and report on Defendant’s mental health

status, the Court entered a finding in this case that Defendant was incompetent to stand trial and ordered her commitment to the Idaho Department of Health and Welfare for restorative treatment. Accordingly, the Court entered a stay halting the proceedings in her case pursuant to Idaho Code Section 18-212(2). The Court determines that due to the required stay of the case, there is substantial and competent evidence that the exception to I.C. § 19-3501(2) applies, as the delay before arraignment was through no action of the Court or the State, rather, as a direct consequence of the determination that Defendant was not fit to proceed to trial. Thus, the period of time Vallow spent committed to the custody of the Department of Health and Welfare is tolled for purposes of calculating speedy trial timing as it relates to her arraignment date.

On April 11, 2022, Defendant was found competent and fit to proceed to trial, and was thereafter arraigned on April 19, 2022. That implicates the timing in I.C. § 19-3501(3), which requires trial within six months of arraignment—here, October 19, 2022. The State argues good cause exists to extend Defendant’s trial to coincide with the trial date set in Daybell’s case, beginning January 9, 2023. Defendant has not waived any speedy trial right. Accordingly, the Court will apply the *Barker v. Wingo* factors to determine whether there is good cause to delay Defendant’s trial. The *Barker v. Wingo* test analyzes a speedy trial claim pursuant to four (4) factors: (a) the length of delay; (b) the reason for the delay; (c) the defendant’s assertion of his right; and (d) the prejudice to the defendant.⁶ The Idaho Supreme Court has determined that the Court should consider the “*Barker* factors,” but look beyond those factors in determining if good cause under I.C. § 19-3501 exists. “Upon careful consideration of the relevant authorities, we believe that a thorough analysis of the reasons for the delay represents the soundest method for determining what constitutes good cause. We therefore conclude that good cause means that there

⁶ *Barker v. Wingo*, 470 U.S. at 530, 92 S. Ct. at 2192.

is a substantial reason that rises to the level of a legal excuse for the delay.” *State v. Clark*, 135 Idaho 255, 260, 16 P.3d 931, 936 (2000). Thus, the Court will consider the *Barker* factors in determining whether the State’s motion should be granted.

Length of delay

“The length of delay serves a dual role in the analysis of the right to a speedy trial. First, it is a triggering mechanism, for until there is some delay that is presumptively prejudicial, it is unnecessary to inquire into the other three factors. *Barker*, 407 U.S. at 530, 92 S.Ct. at 2191, 33 L.Ed.2d at 116; *Young*, 136 Idaho at 117, 29 P.3d at 953. Second, it is one of the factors to be considered once the balancing process is triggered. *Id.*” *State v. Avila*, 143 Idaho 849, 853, 153 P.3d 1195, 1199 (Ct. App. 2006). Here, the length of delay, should the Court move the trial from October 11, 2022 to January 9, 2023 is a period of 90 days from the current trial setting, and 82 days beyond the deadline of October 19, 2022 for purposes of evaluating Defendant’s statutory right to speedy trial. Thus, the length of the delay here serves as the “triggering mechanism” for further analysis. Given the length of delay here of 82 days, and in consideration of the complexity of this case and seriousness of the charges Defendant faces, as more fully explained herein, the Court determines that the length of delay here weighs in favor of granting the State’s motion.

Reason for delay

The next *Barker* factor we consider is the reason for the delay. Different weights attach to different reasons. *Loud Hawk*, 474 U.S. at 315, 106 S.Ct. at 656, 88 L.Ed.2d at 654. Our speedy trial standards recognize that pretrial delay is often both inevitable and wholly justifiable for reasons such as the parties' need for time to collect witnesses or oppose pretrial motions. *Doggett v. United States*, 505 U.S. 647, 656, 112 S.Ct. 2686, 2693, 120 L.Ed.2d 520, 531 (1992). A deliberate attempt to delay the trial in order to hamper the defense should be weighed heavily against the State. *Barker*, 407 U.S. at 531, 92 S.Ct. at 2192, 33 L.Ed.2d at 117. A more neutral reason, such as negligence or overcrowded courts, is weighed less heavily but nevertheless slants against the State since the ultimate responsibility for *854 **1200 such circumstances must rest with the State rather than with the defendant. *Id.*; *State v. Wavrick*, 123 Idaho 83, 89, 844 P.2d 712,

718 (Ct.App.1992). Defense-caused delays are not weighed against the State. *State v. Holtslander*, 102 Idaho 306, 629 P.2d 702 (1981); *Wavrick*, 123 Idaho 83, 844 P.2d 712.

State v. Avila, 143 Idaho 849, 853–54, 153 P.3d 1195, 1199–200 (Ct. App. 2006).

The State cites multiple reasons for the delay. The I.C. § 18-212 stay in this case occurred when Defendant’s counsel raised a concern that Defendant may be incompetent to stand trial. The resulting extended period of time during her restorative treatment while committed cannot be overlooked in assessing the delay from the date the indictment was filed to the present. As competency was established and the case came before the Court for arraignment, the delay between arraignment and trial date becomes the focus. The period of time the Court must scrutinize is the time period between October 19, 2022 and January 9, 2023, to ascertain whether there is good cause to continue her trial.

The primary rationale argued by the State to move Defendant’s trial beyond six months is to prevent an improper severance. Defendant and Daybell were named together in a single charging document, the Indictment. This Court has ruled that they are, and continue to be, properly joined for trial. A motion to sever, filed in Daybell’s case, was denied. Defendant’s defense team was only recently fully assembled under Idaho Criminal Rule 44.3, and her counsel has indicated they need time to prepare a full defense on her behalf.

The Indictment charges Defendant and Daybell with the most serious of crimes. They are alleged to have co-conspired to commit murder, and the State has filed its notice of intent to seek the death penalty in both cases. In addition, there are allegations of a conspiracy to commit multiple financial crimes. These conspiracy allegations were a basis of the Court’s decision to deny Daybell’s motion for severance. The Court has been advised throughout the proceedings by counsel for both defendants that an extraordinary volume of discovery has been produced.

Defendant's attorneys have expressed their concern in regards to having adequate time to prepare for a trial in October, although they have in no way argued against their client's assertion of her speedy trial right.

For reasons more fully set forth in the Court's March 21, 2022 Memorandum Decision Denying Defendant's Motion for Severance, filed in Daybell's case, the Court concluded that the two defendants will be tried together. The State's argument that an improper severance may occur if Defendant's trial proceeds in October, 2022 is well founded. In order to preserve a single trial, the Court would be required to advance Daybell's trial to October. This could potentially deprive Daybell of necessary time to prepare for trial, wherein the Court has previously scheduled his trial for January, 2023, and his attorney has reasonably relied on that setting in his ongoing preparation.

Given the directive that the Court consider whether there is substantial and competent evidence rising to the level of a "legal excuse for the delay" (*State v. Clark*), all of these factors weigh in favor here of such a finding, when considering the reason for the delay.

Whether Defendant asserted her right to speedy trial

Defendant has unequivocally asserted her right to a speedy trial.

Prejudice to Defendant

Prejudice to the accused cause by trial delay is assessed in light of the interests of the defendant.⁷ Those interests include (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.⁸ Infringement on the third interest is the most serious form of prejudice because the inability of the defendant to adequately prepare his or her case skews the fairness of the entire

⁷ *State v. Davis*, 141 Idaho at 840, 118 P.3d at 172.

⁸ *Id.*

system.⁹ “The nature and extent of prejudice arising out of a delay in bringing a criminal action to trial is the most important of the Barker factors.” *State v. Crockett*, 151 Idaho 674, 678, 263 P.3d 139, 143 (Ct. App. 2011).

Here, a 90 day delay in proceeding to trial—from October 11, 2022 to January 9, 2023 does expand Defendant’s pretrial incarceration. This factor weighs against finding good cause.

The second factor, to minimize anxiety and concern has not been argued by Defendant. To the contrary, her counsel, while acknowledging her mental state is fragile and complex, states she has been able to cogently and rationally cooperate with the preparation of her defense. This factor is neutral in this assessment.

The third factor, to limit the impairment of the defense, weighs in favor of finding good cause. Defendant’s counsel has voiced their diligence in preparing her case. However, the relatively recent appointment of her lead counsel, and the even more recent appointment of her co-counsel, in light of the severity of the crimes charges and the voluminous discovery, leads the Court to find that continuing the trial will not result in any impairment to Defendant’s defense of the case. The resulting delay if the State’s Motion is granted would afford defense counsel additional time to prepare for trial. On May 2, 2022, the State filed a notice of intent to seek the death penalty against Defendant. This inarguably complicates the preparation of a defense. Of note, no argument has been advanced by the defense that the delay would impair their ability to defend this case. On balance, this factor weighs in favor of the State’s request to delay the trial until January, 2023.

In weighing the *Barker* factors, the Court considers that those factors weigh in favor of granting the State’s motion. In addition to those factors, the Court must determine, pursuant to

⁹ Id.

State v. Clark, whether there is a substantial reason that rises to the level of a legal excuse for the delay. In this case, Defendant is charged as a co-conspirator with Daybell. The overt acts alleged in the Indictment and the conspiracy charges have lead this Court to conclude that Defendant and Daybell should be tried together in a single trial. The Court is cognizant that Defendant is in custody, and has been in custody for an extended period of time. While that factor weighs heavily, and undue incarceration before trial must be limited, it does not outweigh the factors favoring a finding of good cause.

In summary, this is a death penalty case. The discovery volume is extraordinary. Defendant's defense team has only recently been fully assembled and has expressed concerns with the ability to be fully prepared to defend their client in October. The trial itself has been set for a duration of 10 weeks—which further confirms that scope of evidence the State intends to introduce. The Court is concerned that the defense may be impaired by being required to commence trial in October, where they are relatively recently appointed to the case. On the other hand, the State has had far more time to prepare its case—nearly three years since Defendant was initially charged in Case CR22-20-838. Defendant has advanced no argument that the delay sought by the State will impair her defense of the case. Finally, the Court has previously determined that her case is to be tried together with Daybell's case in a single trial, and advancing Daybell's trial to October may prejudice his defense.

On balance of all of these factors, and in full consideration of the record before the Court, it is determined that the State has met its burden by demonstrating substantial and competent evidence that good cause exists under I.C. § 19-3501 requiring this Court to extend the six-month time for trial as prescribed by statute. Further, this Court determines, based on this same rationale,


that Defendant's concurrent constitutional rights are not violated by extending the time for her trial an additional 82 days, to commence on January 9, 2023.

IV. CONCLUSION

Accordingly, the Court will GRANT the State's motion to continue Defendant's trial from October 11, 2022 to January 9, 2023.

IT IS SO ORDERED.

Dated this 26 day of May, 2022.


Steven W. Boyce
District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 26 day of May, 2022, the foregoing Order was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes; by causing the same to be hand-delivered, by facsimile, or by e-mail.

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