# CAPTION: STATE v. BENTON

**01-20-23**

APPEAL NO.: C-210476

TRIAL NO.: C-20CRB-21903

KEY WORDS: CONSTITUTIONAL LAW — SPEEDY TRIAL – SIXTH AMENDMENT – PRESUMPTIVE PREJUDICE

SUMMARY:

The trial court did not err by engaging in a constitutional speedy-trial analysis under *Barker v. Wingo,* 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972), when it found that the six-and-a-half-month delay between the filing of the first-degree misdemeanor complaint and defendant’s arrest resulted in actual, not presumptive, prejudice to defendant. [*But see* DISSENT: Because the trial court found that the six-and-a-half-month delay in initiating the prosecution was not presumptively prejudicial, the trial court erred in analyzing the remaining *Barker* factors.]

JUDGMENT: AFFIRMED

JUDGES: OPINION by CROUSE, J.; BOCK, J., CONCURS, and ZAYAS J. DISSENTS.