IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NO. C-260052 TRIAL NO. 24/CRB/19453
Plaintiff-Appellee,	:	
vs.	:	*JUDGMENT ENTRY*
DAJEWAUN DAWSON,	:	
Defendant-Appellant.	:	

This cause was heard upon the appeal, the record, the briefs, and arguments.

For the reasons set forth in the Opinion filed this date, the judgment of the trial court is affirmed.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty, and orders that costs be taxed under App.R. 24.

The court further orders that (1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and (2) the mandate be sent to the trial court for execution under App.R. 27.

To the clerk:

Enter upon the journal of the court on 10/23/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer Hensley
Administrative Judge

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STATE OF OHIO,	:	APPEAL NO. C-260052 TRIAL NO. 24/CRB/19453
Plaintiff-Appellee,	:	
vs.	:	*O P I N I O N*
DAJEWAUN DAWSON,	:	
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Municipal Court

Judgment Appealed From Is: Affirmed

Date of Judgment Entry on Appeal: October 23, 2026

Emily Smart Woerner, City Solicitor, *Susan M. Zurface*, Chief Prosecuting Attorney, and *Robert E. Rickey*, Assistant Prosecuting Attorney, for Plaintiff-Appellee,

Angela W. Chang, Hamilton County Public Defender, and *Benjamin J. Martin*, Assistant Public Defender, for Defendant-Appellant.

CROUSE, Judge.

{¶1} Defendant-appellant Dajewaun Dawson appeals his conviction for telecommunications harassment. In a single assignment of error, he argues that his constitutional right to a speedy trial was violated and that the trial court erred in denying his motion to dismiss on that ground. We find Dawson's argument to be without merit, and we affirm the trial court's judgment.

I. Factual and Procedural History

{¶2} On November 11, 2024, a complaint was filed in the Hamilton County Municipal Court charging Dawson with telecommunication harassment, a first-degree misdemeanor in violation of R.C. 2917.21(B). An affidavit filed in support of the complaint alleged that Dawson had knowingly harassed victim J.L. "by continuing to send electronic communications via text message and phone calls after being told to stop contacting" J.L. by both J.L. and the police. The affidavit further alleged that Dawson had "knowingly harassed [J.L.] after being discharged from [J.L.'s] care at Good Samaritan Hospital."

{¶3} Although a warrant was issued for Dawson's arrest on the same date that the complaint was filed, he was not arrested until approximately nine months later, on August 17, 2025.

{¶4} On September 26, 2025, Dawson filed a motion to dismiss alleging that his constitutional right to a speedy trial had been violated. Dawson argued that 279 days had passed between the filing of the complaint and his arrest, and he asserted that the State did not pursue any attempts to serve him with the warrant or notify him of the complaint during that period. Dawson further argued that he timely asserted the violation of his speedy-trial rights and that he was prejudiced by the delay in prosecution. In support of his prejudice argument, Dawson contended that the

availability and memory of potential witnesses was likely impaired by the delay in prosecution and that any body-worn-camera ("BWC") footage was no longer available, impairing his ability to prepare a defense.

{¶5} The State opposed Dawson's motion to dismiss. It argued that the prosecution was commenced within the two-year statute of limitations for a misdemeanor offense set forth in R.C. 2901.13, that Dawson had not been incarcerated during the period of delay, that officers had exercised reasonable diligence and attempted to serve Dawson with the warrant three times, and that Dawson was not prejudiced by the delay in prosecution. The State conceded that the BWC footage was no longer available, but it argued that the harassing text messages sent by Dawson to the victim remained and that the essential witnesses were available to testify.

{¶6} The trial court held a hearing on Dawson's motion to dismiss. Cincinnati Police Officer Skylar McDonald testified that she filed a complaint against Dawson for telecommunications harassment on November 11, 2024, after speaking with J.L. Officer McDonald testified that Dawson called J.L. multiple times while she was in J.L.'s presence. On one occasion, she answered J.L.'s phone, identified herself as a Cincinnati police officer, and told Dawson that he needed to stop contacting J.L. or that charges could be filed. During the call, Dawson identified himself and indicated that he did not believe Officer McDonald's statement that she was an officer.

{¶7} Officer McDonald stated that she recorded her conversation with J.L. on her BWC, but that she did not obtain a written statement from J.L. Officer McDonald's testimony revealed that the BWC footage of her conversation with J.L. was no longer available, because such footage is only retained for 90 days and Dawson's arrest occurred more than 90 days after she spoke with J.L. Officer McDonald further testified that she was able to recall this incident and that she would

be able to testify about it at a trial. She also testified that she obtained an address for Dawson of 1033 Linn Street through a search of the police department's system.

{¶8} Cincinnati Police Officer Bethany Kolbinsky testified that she was assigned to serve the warrant on Dawson, and that she attempted to do so approximately six weeks after the complaint was filed. Officer Kolbinsky attempted service on December 21, 2024, December 22, 2024, and December 23, 2024. On each attempt, she knocked on the door to the residence and announced that she was a police officer. She stated that this was the standard process for service of a misdemeanor warrant.

{¶9} Officer Kolbinsky testified that the residence looked vacant, that she never encountered Dawson, and that she never left notice at the residence. When asked if she ever received confirmation that Dawson lived at the residence where she attempted service, Officer Kolbinsky responded that a document "like a warrant," issued by District Two of the Cincinnati Police Department, was in the mailbox for Dawson.

{¶10} J.L.'s testimony established that he is a physician and that he treated Dawson on November 11, 2024, at Good Samaritan Hospital. According to J.L., Dawson was upset about being discharged from the hospital. J.L. testified that after he arrived home from his hospital shift on the day that he treated and discharged Dawson, his phone "was blowing up with a whole bunch of kind of inappropriate messages, texts, threats—there was voice mails and things like that." J.L. testified that several of the messages mentioned his home address and threatened his medical license. He stated that he saved the text messages, printed them, and gave them to the police. J.L. further testified that he could recall the events that occurred in November 2024 and that he would be able to testify to them credibly.

{¶11} The trial court denied Dawson's motion to dismiss. It found that the nine-month delay between the filing of the complaint and Dawson's arrest triggered further analysis. The court noted that the State had attempted to serve Dawson, and that Dawson had not been incarcerated during the period of delay. The trial court was not persuaded by Dawson's argument that he was prejudiced by the delay because the BWC footage of the officer's encounter with J.L. no longer existed, stating that a dismissal of charges because BWC footage was not retained would "produce an absurd result." The court found that Dawson had not been prejudiced by the delay in prosecution because documentary and testimony evidence were still available and the State had not acted in bad faith.

{¶12} Dawson ultimately entered a no-contest plea. The trial court imposed a suspended sentence of 180 days in jail and six months of community control, and Dawson was ordered to have no contact with J.L.

{¶13} Dawson now appeals

II. Constitutional Right to a Speedy Trial

{¶14} In his sole assignment of error, Dawson argues that the trial court erred in denying his motion to dismiss.

{¶15} Our review of a trial court's denial of a motion to dismiss based on a violation of the constitutional right to a speedy trial presents a mixed question of law and fact. *State v. Hill*, 2025-Ohio-4565, ¶ 10 (1st Dist.). We must accept the trial court's findings of fact where they are supported by competent and credible evidence, but we conduct a de novo review to determine whether the facts satisfy the applicable legal standard. *Id.*

{¶16} The Sixth Amendment to the United States Constitution, made applicable to the States by the Fourteenth Amendment, provides, "In all criminal

prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. Const., amend. VI. The United States Supreme Court has set forth four factors to be considered when determining whether a defendant has been deprived of the constitutional right to speedy trial: "Length of delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant." *Barker v. Wingo*, 407 U.S. 514, 530 (1972). No single factor is controlling, but the length of the delay is "particularly important." *State v. Sears*, 2005-Ohio-5963, ¶ 8 (1st Dist.). We evaluate each factor in turn.

A. Length of the Delay

{¶17} The length of the delay has been described as a "triggering mechanism" for further analysis. *Barker* at 530. Whether the length of the delay in any particular case provokes further inquiry and triggers further analysis depends upon the individual circumstances of the case. *Hill* at ¶ 16.

{¶18} This court has held that a delay of more than nine months in a misdemeanor case "gives prima facie merit to a claim of denial of the constitution-based right to a speedy trial and requires the court to analyze the three remaining *Barker* factors to determine if reversal is warranted." *State v. Muhammadel*, 2021-Ohio-567, ¶ 13 (1st Dist.); *see Sears* ¶ 12. Therefore, the approximately nine-month delay in the case at bar triggers further analysis of the remaining factors. The State does not argue otherwise.

{¶19} But while the length of the delay may trigger consideration of the remaining *Barker* factors, this first factor "weighs only negligibly" in favor of Dawson because "he was not incarcerated or otherwise restrained of his liberty during the delay and did not know of the pending complaint." *Muhammadel* at ¶ 14; *See State v. Bush*, 2020-Ohio-1229, ¶ 15 (1st Dist.) (although the first factor pertaining to length of delay

weighed in favor of the defendant, "its weight [was] negligible" because the defendant was not incarcerated during the delay).

B. Reason for the Delay

{¶20} The State is required to make "a 'diligent good faith effort' to timely bring the defendant to trial." *Hill*, 2025-Ohio-4565, at ¶ 19 (1st Dist.), quoting *State v. Jackson*, 2016-Ohio-5196, ¶ 11 (1st Dist.). The burden to explain any delay lies with the State. *Id*.

{¶21} When considering the reason for the delay, "different weights should be assigned to different reasons." *Barker*, 407 U.S. at 531; *Hill* at ¶ 20. An intentional delay will weigh heavily against the State, while negligence weighs less heavily. *Hill* at ¶ 20. But negligence does not excuse the delay. "Although negligence is obviously to be weighed more lightly than a deliberate intent to harm the accused's 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." *Doggett v. United States*, 505 U.S. 647, 657 (1992).

{¶22} During closing arguments on Dawson's motion to dismiss, when discussing this factor, Dawson's counsel stated, "The reason for the delay, I think, was not because the State was not diligent, or that no one made any efforts." Counsel then stressed that "people move," and that the officers waited six weeks before they attempted to serve Dawson at the address they had for him at the time the complaint was filed. Counsel additionally stated, "So I do not assert here as to the reason for delay that it's because the State and the officer, CPD, made no due diligence, just that Mr. Dawson did not live at that address when the attempts were made. But that doesn't foreclose the State's opportunity to continue to investigate and try to find Mr. Dawson. He never moved away. He has been in Hamilton County."

{¶23} Based on counsel's statements, we discern that Dawson's due-diligence argument was not that the State failed to exhibit *any* due diligence in attempting to serve Dawson, but that the State exhibited no diligence after the initial attempts at service were unsuccessful.

{¶24} Several recent cases from this court provide guidance as we consider this factor. In *Hill*, we held that the State did not make a "diligent good faith effort" to bring Hill to trial where, despite having knowledge of Hill's name and address, officers made no attempt to serve the warrant, but instead turned the warrant over to local law enforcement. *Hill*, 2025-Ohio-4565, at ¶ 21 (1st Dist.). We explained that "the State presented no evidence that any State actor tried to serve or execute the warrant," and we held that the factor discussing the reason for the delay weighed against the State based on its complete failure to attempt service. *Id*.

{¶25} Contrast the facts of *Hill* with those of *Jackson,* 2016-Ohio-5196 (1st Dist.). In *Jackson*, an officer testified that he searched for the defendant for approximately one month after charges were filed. The officer responded to an address that he found on both a check written by the defendant and a rental agreement. He also asked around the neighborhood about the defendant, and, despite a query of the department's computer system, was not able to obtain an alternate address for the defendant. After searching for a month, the officer turned the matter over to his district's warrant section. *Id*. at ¶ 3-4. With respect to whether the State had been reasonably diligent in attempting to bring Jackson to trial, we stated, "save for the one month following the issuance of the warrants, the state was not reasonably diligent in pursuing the charges against Jackson," and we held that this factor weighed against the State. *Id*. at ¶ 13.

{¶26} The facts of the case at bar are more akin to those in *Jackson* than those

in *Hill*. As Dawson conceded below, the State did not abandon its duty to attempt service, and in fact attempted to serve him three times at his last known address. The officer attempting service received some verification that she had the correct address for Dawson, as she found another notice left for Dawson at the residence by a different district within the Cincinnati Police Department. However, after these initial attempts, no further attempts at service were made.

{¶27} We hold that the State was not reasonably diligent after the initial attempts at service, noting that the State's six-week delay in even attempting service increased the likelihood that Dawson's address had changed. While this factor weighs against the State, the record supports the trial court's finding that the State did not act in bad faith or intentionally cause the delay. Rather, the State's lack of further attempts at service can best be described as negligent. So while the State's actions fall "on the wrong side of the divide between acceptable and unacceptable reasons for delaying a criminal prosecution," its negligence should be "weighed more lightly than a deliberate intent to harm the accused's defense." *Doggett*, 505 U.S. at 657.

C. Dawson's Assertion of his Right

{¶28} Dawson timely asserted his constitutional right to a speedy trial and his belief that this right had been violated. He was arrested on August 17, 2025, and he filed his motion to dismiss on speedy-trial grounds on September 26, 2025. This factor weighs in favor of Dawson.

D. Prejudice

{¶29} Prejudice should be considered "in the light of the interests of defendants which the speedy trial right was designed to protect." *Barker*, 407 U.S. at 532. These interests are "(i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the

defense will be impaired." *Id.*

{¶30} Only the last of these interests has been implicated here. Dawson was not incarcerated during the period of delay. And the record contains no evidence that he had knowledge of the warrant, so he could not have suffered anxiety or concern. *See Bush*, 2020-Ohio-1229, at ¶ 19 (1st Dist.); *Doggett,* 505 U.S. at 654 (where defendant "was subjected neither to pretrial detention nor, he has successfully contended, to awareness of unresolved charges against him," he could only establish prejudice by showing a possibility that his defense was impaired).

{¶31} Dawson contends that his defense was impaired by the delay in prosecution. He argues both that he was actually prejudiced by the delay and that prejudice should be presumed based on the circumstances of this case.

1. Actual Prejudice

{¶32} Dawson argues that he suffered actual prejudice from the delay in prosecution because Officer McDonald's BWC footage was destroyed during that period. He contends that "[w]ithout the bodycam footage, it is not possible to verify whether [J.L.] actually did request that Mr. Dawson stop contacting him." And he argues that this information was necessary, because a charge of telecommunications harassment requires an offender to continue contacting the victim after having been told to stop.

{¶33} This court considered and rejected a similar argument regarding the destruction of BWC footage in *Muhammadel*, 2021-Ohio-567 (1st Dist.). In that case, Muhammadel argued that he was prejudiced by the State's delay in bringing him to trial because he lost the ability to preserve BWC footage. *Id.* at ¶ 39. We noted that the record failed to suggest that the relevant officer's BWC had definitively been activated or that, if the camera had been activated, it had captured anything relevant to

Muhammadel's defense, and we held that "while Muhammadel showed that he was not able to interview a state's witness earlier, he did not show the witness was deceased or otherwise unavailable for an interview or a trial." *Id.* at ¶ 41. We accordingly held that Muhammadel "failed to show particularized prejudice." *Id.*

{¶34} Similarly, in *State v. Jones*, 2025-Ohio-3297, ¶ 30 (1st Dist.), we held that Jones's assertion that he was prejudiced by the State's failure to retain an officer's BWC footage was "speculative at best." We rejected the argument that the loss of the BWC footage hindered Jones's ability to impeach a witness where the witness was available to testify at both the hearing on the motion to dismiss and at the trial. *Id.*

{¶35} We follow *Muhammadel* and *Jones* and hold that Dawson has failed to establish that destruction of Officer McDonald's BWC footage caused him actual prejudice. An argument that the BWC footage would have assisted in Dawson's defense is "speculative at best." *See Jones* at ¶ 30. And the State presented testimony from both J.L. and Officer McDonald that they clearly recalled the event in question and would be able to testify about it at trial. *See id.*; *Muhammadel* at ¶ 41.

{¶36} We appreciate Dawson's concern that a loss of memory "is not always reflected in the record because what has been forgotten can rarely be shown." *See Barker,* 407 U.S. at 532. However, where J.L. and Officer McDonald not only stated that they could recall the incident, but actually testified about the incident at the hearing on the motion to dismiss, the trial court was able to assess their ability to remember the events. And recall that these witnesses were testifying about an event that had happened approximately 12 months prior, and not several years in the past as in *Muhammadel*. Further, the actual harassing text messages sent by Dawson to J.L. were retained and available for trial. Under these circumstances, we cannot hold that destruction of the BWC footage resulted in actual prejudice to Dawson.

2. Presumption of Prejudice

{¶37} "[A]ffirmative proof of particularized prejudice is not essential to every speedy trial claim," and in some cases prejudice will be presumed. *Doggett*, 505 U.S. at 655. Presumptive prejudice alone will not establish a violation of the constitutional right to a speedy trial without consideration of the remaining *Barker* factors, but "it is part of the mix of relevant facts, and its importance increases with the length of delay." *Id.* at 656.

{¶38} "In determining at what point prejudice is presumed so as to relieve the defendant of showing actual prejudice to her or his defense, courts focus on the culpability of the state in failing to bring the defendant to trial." *Bush*, 2020-Ohio-1229, at ¶ 22 (1st Dist.). We further explained in *Bush*,

> On the spectrum between diligent prosecution and bad-faith delay, official negligence in bringing an accused to trial occupies the middle ground. Where the state's conduct in bringing the defendant to trial is due to negligence, courts' toleration of such negligence varies inversely with its protractedness and its consequent threat to the fairness of the accused's trial. Therefore, to warrant granting relief, negligence unaccompanied by particularized trial prejudice must have lasted longer than negligence demonstrably causing such prejudice.

(Cleaned up.) *Id.*, citing *Doggett* at 656-657.

{¶39} *Bush* involved a 21.5-month delay between indictment and arrest. *Id.* at ¶ 2, 14. We declined to presume prejudice from that delay where the State "offered evidence that it had made periodic and regular efforts to locate Bush during the period between his indictment and arrest." *Id.* at ¶ 27. We likewise declined to presume prejudice in *Muhammadel*, which involved a two-year delay between the filing of the

complaint and the defendant's arrest, where the State had made efforts to locate a homeless Muhammadel and the record contained no evidence about where Muhammadel could have been found during the period of delay. *Muhammadel*, 2021-Ohio-567, at ¶ 1, 37 (1st Dist.). We did note, however, that the "case involve[d] a lack of police persistence that we do not condone." *Id.* at ¶ 38.

{¶40} But we reached the opposite determination in *Sears* and *Jackson*. In *Sears,* 2005-Ohio-5963, at ¶ 14, 16 (1st Dist.), we held that a nine-month delay between filing of the complaint and arrest was presumptively prejudicial where the State made no effort to serve the defendant with the warrant and complaint. And in *Jackson*, 2016-Ohio-5196, at ¶ 20 (1st Dist.), we presumed prejudice "where there was a four-year delay occasioned by the state's lack of diligence."

{¶41} Here, the period of delay between the filing of the complaint and Dawson's arrest was approximately nine months. This was shorter than the delay in *Jackson*, as well as in *Bush* and *Muhammadel*. The delay in *Sears* was also nine months. But critically, unlike *Sears*, in which no attempts at service were made, the State attempted to serve Dawson three times. The State's lack of subsequent attempts at service should not be condoned, but given the initial attempts at service and the length of the delay, a presumption of prejudice is not warranted.

{¶42} Absent any presumption of prejudice or actual prejudice demonstrated by Dawson, this factor weighs in favor of the State.

E. Balancing of the Barker *Factors*

{¶43} Following our review of the record and weighing of the relevant factors, we hold that the nine-month delay in bringing Dawson to trial, which was occasioned by the State's negligence but did not result in any prejudice to Dawson, did not violate Dawson's constitutional right to a speedy trial.

{¶44} Dawson's assignment of error is overruled, and the judgment of the trial court is affirmed.

Judgment affirmed.

ZAYAS, P.J., and **NESTOR, J.,** concur.