

CAUSE NO. F-19-41257

THE STATE OF TEXAS § IN THE CDC 1
 §
V. § OF
 §
SCOTTY FULTZ § DALLAS COUNTY, TEXAS

DEFENDANT’ S SECOND DEMAND FOR SPEEDY TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW the Defendant in the above entitled and numbered cause, by and through his attorney of record, G. Don Haslam, Jr., and requests this Honorable Court to afford the Defendant his constitutional rights to a speedy trial; and in support thereof would show the Court as follows:

I.

This action commenced on or about June 7, 2019 with the arrest of Defendant. The PC affidavit in this state jail felony alleges possession of about 0.1 g of heroin. An indictment has been neither presented nor returned on to the knowledge of the undersigned.

II.

Defendant’s first demand for speedy trial was served on the State *via* email to ADA Marissa Aulbaugh on June 14, 2020 about 360 days after commencement. Because the court clerk had at that time a prohibition against accepting efiled pleadings pre-indictment, the first demand was not efiled until October 5, 2020. Apparently, the clerk has modified this policy.

III.

Approximately 450 days havenpow passed from the commencement of this action to the date of the filing of this Motion. Neither the Defendant nor defense counsel has committed any act or omission contributing to this delay.

IV.

At no time has the Defendant moved for continuance.

V.

At no time during the pendency of this case has the case gone to trial. The delay is attributable entirely to the actions and inactions of the prosecuting attorney.

VI.

The above-described delay is prejudicial to the Defendant in that since the commencement of this action the Defendant has suffered much anxiety and concern regarding the outcome of the trial herein. The stigma of this action hinders his ability to gain employment. Further, due to delay caused by the State, the Defendant has likely suffered in his ability to present his case in that the loss of evidence and the loss of witnesses are likely. The State tendered some discovery to Defendant's lawyer on June 15, 2020 – a full year post-arrest - *but critically there is no lab report. Importantly*, the State alleges the possession occurred when Defendant handed a jailer at the Dallas County Jail the CS during book-in, but Dallas County Jail notoriously discards surveillance tape of the bookins after 30 days. It is likely we have a spoliation issue regarding this crucial evidence. Finally, the delay has deprived Defendant to initiate any investigation or identify witnesses and preserve testimony.

VII.

Therefore, the Defendant's right to a speedy trial, as guaranteed by the Sixth Amendment of the *United States Constitution* and Art. I, Sec. 10 of the *Texas Constitution* have been denied and the Defendant is entitled to a speedy trial in the above entitled and numbered cause.

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully prays that this Honorable Court will grant this, the *Defendant's Demand for Speedy Trial* in all things; or in the

