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*In re Thomas J.:*

**Juveniles Have a Constitutional Right to a Speedy Trial Under the Due Process Clause of the Fourteenth Amendment and Article 21 of the Maryland Declaration of Rights**

By: Brenda N. Taylor

In a case of first impression, the Court of Appeals of Maryland held juveniles have a constitutional right to a speedy trial under the Due Process Clause of the Fourteenth Amendment and Article 21 of the Maryland Declaration of Rights. *In re Thomas*, 372 Md. 50, 811 A.2d 310 (2002). The court further held when applying the *Barker* test delays due to the State's negligence are weighed against the State. *Id.* at 76, 811 A.2d at 326.

In 1996, Thomas J. ("Thomas"), then fourteen years old, was arrested for attempted robbery and later released to his mother ("Mrs. J.") after she signed a release requiring her to notify the court if she or Thomas moved. The court issued a writ of attachment following three unsuccessful attempts to serve a summons because Thomas moved. The writ was returned when Thomas was seventeen.

Thomas filed a preliminary motion to dismiss in the Circuit Court for Prince George's County on grounds he was denied a speedy trial. The juvenile court denied the motion. Thomas appealed and the Court of Special Appeals of Maryland reversed the judgment. The Court of Appeals of Maryland granted certiorari to address the issue of first impression, whether the

constitutional right to a speedy trial applies to juvenile proceedings.

The court's analysis began with a review of a juvenile's right to a speedy trial. The court noted the United States Supreme Court has been reluctant to bestow all rights constitutionally assured to adults in criminal proceedings to state juvenile proceedings. *Id.* at 58, 811 A.2d at 315. The court determined that relief must arise from a violation of [Thomas'] due process rights under the Fourteenth Amendment. *Id.*

Rights guaranteed to Maryland adult criminal defendants are not guaranteed in juvenile proceedings. *Id.* Rather than incorporate all "adult" rights to juveniles, the court of appeals approaches juvenile rights in criminal prosecutions on a "right-by-right" basis. *Id.*

Maryland Rule 11-114(b)(1) protects juveniles against delayed proceedings when they are detained and not given an adjudicatory hearing within thirty days of court ordered detention, or not detained and not given an adjudicatory hearing within sixty days after they are served with the petition. *In re Thomas*, 372 Md. at 61, 811 A.2d at 316-317. The court concluded Rule 11-114(b)(1) failed to protect Thomas from substantial delay because he was not detained and

received the petition three years and four months after his arrest. *Id.* at 60, 811 A.2d at 316.

Next, the court looked to the Due Process Clause of the Fourteenth Amendment and Article 21 of the Maryland Declaration of Rights. *Id.* at 61, 811 A.2d at 317. The court based its federal constitutional analysis on the "essentials of due process and fair treatment" established by the Supreme Court in *In re Gault*, 387 U.S. 1 (1967). *Id.* at 64-65, 811 A.2d at 319.

Noting that neither the Supreme Court nor the court of appeals had considered a juvenile's constitutional right to a speedy trial, the court cited other jurisdictions where the right to a speedy trial is extended to youthful offenders in juvenile proceedings. *Id.* at 66-67, 811 A.2d at 319-320. The court held, "as a matter of fundamental fairness," juveniles have a right to a speedy trial under the Due Process Clause of the Fourteenth Amendment and Article 21 of the Maryland Declaration of Rights because speedy trials safeguard the fact-finding process. *Id.* at 70, 811 A.2d at 322. However, the court declined to establish a specific length of delay that would violate this right. *In re Thomas*, 372 Md.

at 70, 811 A.2d at 322.

The court relied on case law and the Supreme Court's four-part balancing test established in *Barker v. Wingo*, 407 U.S. 514 (1972), subsequently adopted by the court in *Divver*, to determine whether Thomas' right to a speedy trial was violated. *Id.* at 72, 811 A.2d at 323; *See Divver v. State*, 356 Md. 379 (1999). The *Barker* factors include 1) the length of delay; 2) the reason for the delay; 3) the accused's assertion of the right to a speedy trial; and 4) whether the accused was prejudiced by the delay. *Id.* at 72, 811 A.2d at 323.

Beginning with the *Barker* analysis, the court stated length of delay "is a triggering mechanism and is not necessarily . . . sufficient to compel dismissal." *Id.* at 73, 811 A.2d at 324. In *Divver*, the court held length of delay "is measured from the date of arrest or filing of indictment, information, or other formal charges to the date of trial." *Id.* Thomas' date of arrest was January 18, 1996 and the writ was returned on April 22, 1999, a delay of three years and four months. *Id.* The court found the delay sufficient enough to raise a presumption of prejudice and compel the court to consider the remaining three *Barker* factors. *In re Thomas*, 372 Md. at 73, 811 A.2d at 324.

Next, the court considered the reason for the delay. *Id.* at 74, 811 A.2d at 324. Finding no evidence the State intended to hamper Thomas' defense, or that Mrs. J. intended to elude the juvenile proceedings by moving, the court

opined the State is obligated to make a reasonable attempt to locate alleged delinquents. *Id.* at 75, 811 A.2d at 325. Mrs. J. "reasonably kept in contact" with authorities and the State merely relied upon a writ, causing the court to weigh the delay against the State due to the State's negligence. *Id.* at 76, 811 A.2d at 326.

Whether an accused asserted a right to a speedy trial is the third *Barker* factor. *Id.* at 76, 811 A.2d at 326. Thomas did not assert his right to a speedy trial. *Id.* However, in *Brady v. State*, 288 Md. 61 (1980), the court held when a defendant is unaware of a charge, a failure to demand a speedy trial cannot be weighed against him. *In re Thomas*, 372 Md. at 76, 811 A.2d at 326. Therefore, because Thomas did not know about the delinquency petition, the court did not weigh this factor against him. *Id.* at 76, 811 A.2d at 326.

Concluding its analysis, the court analyzed the fourth *Barker* factor -- prejudice to the accused. *Id.* at 77, 811 A.2d at 326. Prejudice is assessed in light of three interests established in *Barker* to protect the constitutional right to a speedy trial. The interests include: 1) prevention of oppressive pretrial incarceration; 2) minimization of anxiety and concern of the accused; and 3) limitation of the possibility that the defense will be impaired. *Id.* at 77, 811 A.2d at 326.

The court determined Thomas was not oppressively incarcerated. *Id.* The court further determined Thomas did not state with particularity a claim of anxiety or con-

cern. *Id.* at 78, 811 A.2d at 327. However, the court opined the State failed to meet its goal to minimize the time between Thomas' arrest and disposition to prevent anxiety and psychological harm. *In re Thomas*, 372 Md. at 78, 811 A.2d at 327. Although not dispositive, the court concluded Thomas was neither anxious nor concerned. *Id.* at 78, 811 A.2d at 327.

In assessing prejudice to the accused, the court stated, "it speaks more to a presumed prejudice" because actual prejudice is difficult to prove. *Id.* The court also stated substantial delays give rise to a presumption of prejudice. *Id.* at 79, 811 A.2d at 327. The importance of prejudice increases with the length of delay. *Id.* at 80, 811 A.2d at 328 (quoting *Doggett v. United States*, 505 U.S. 647 (1992)). The court held the three year and four month delay presumptively prejudicial and concluded that Thomas's constitutional due process and speedy trial rights were violated. *Id.* at 80, 811 A.2d at 328.

The Court of Appeals of Maryland joined other jurisdictions in recognizing, as a matter of fundamental fairness, juvenile's rights to a speedy trial. This constitutional right, combined with protections provided by Maryland Rule 11-114(b)(1), will insure that youthful offenders are not unfairly prejudiced by substantial delays. The onus is now upon Maryland's juvenile justice system to fashion appropriate measures to prevent violations of Maryland juveniles' rights to a speedy trial.