

SUPREME COURT, STATE OF COLORADO Ralph L. Carr Judicial Center 2 East 14th Avenue Denver, CO 80203 Certiorari to the Colorado Court of Appeals Case Number 2024CA177	DATE FILED July 2, 2026 9:39 AM FILING ID: 3F497BA98E3F1 CASE NUMBER: 2026SC329
Petitioner VINCENTE TYLER VERNAGALLO v. Respondent THE PEOPLE OF THE STATE OF COLORADO	
Megan A. Ring Colorado State Public Defender RIVER B. SEDAKA 1300 Broadway, Suite 300 Denver, CO 80203 Phone: (303) 764-1400 Fax: (303) 764-1479 Email: PDApp.Service@coloradodefenders.us Atty. Reg. #50285	Case Number: 2026SC329
PETITION FOR WRIT OF CERTIORARI	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 32 and C.A.R. 53, including all formatting requirements set forth in these rules.

Specifically, the undersigned certifies that this petition complies with the applicable word limit and formatting requirements set forth in the above rules.

It contains 2,335 words.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 32 and C.A.R. 53.

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ISSUE PRESENTED FOR REVIEW

- I. Whether the 26-month delay bringing Mr. Vernagallo to trial violated his constitutional speedy trial right, where approximately nine months' worth of delays resulted from CMHHIP backlogs.

OPINION BELOW

A copy of the court of appeals' unpublished decision in Case No. 24CA177, *The People of the State of Colorado v. Vincente Tyler Vernagallo*, is attached.

JURISDICTION

The court of appeals affirmed Mr. Vernagallo's convictions on April 9, 2026, and this Court granted an extension of time to July 2, 2026, within which to file this petition. This Court has jurisdiction pursuant to C.A.R. 51 & 56.

OTHER SUPREME COURT CASES

Counsel is aware of no other cases in this Court on the same or similar issues.

STATEMENT OF THE CASE

Mr. Vernagallo was charged with two counts of felony menacing for pointing a simulated firearm at his sister and her boyfriend, which he intended as a joke.

Mr. Vernagallo was arrested on August 11, 2021, and charged on August 13. CF, pp. 1-4, 18-20. About a month later, defense trial counsel filed a motion to have Mr. Vernagallo's competency evaluated. CF, p. 25. Another month later, in October 2021, he was found incompetent. TR 10/7/2021, pp. 4:9-5:5:5. He wasn't admitted to CMHHIP for another three months—late January of 2022—and force was authorized to effectuate the transport. CF, pp. 90, 126. Soon after, forcible medication was authorized. CF, pp. 134-36. CMHHIP concluded Mr. Vernagallo was competent by late February, and the court implicitly found him competent in early March of 2022. TR 3/3/2022, p. 3:12-22. A preliminary hearing was set for the end of that month, and an arraignment was set a few months later, then ultimately reset again to late September. *Id.*, pp. 3:23-4:7; TR 5/20/2022, pp. 3:23-4:22; TR 7/22/2022, pp. 3:13-4:5.

Shortly before the arraignment, however, defense trial counsel filed another motion to evaluate Mr. Vernagallo's competency. CF, p. 180. He was found competent two months later, and was then finally allowed to enter his not guilty plea,

nearly 15 months after his arrest. TR 11/4/2022, pp. 3:25-4:8. Trial was set for April of 2023. *Id.*, p. 4:13-18.

In the meantime, however, defense trial counsel requested an evaluation of Mr. Vernagallo's competency a third time, in March of 2023. CF, p. 350. Mr. Vernagallo was found incompetent nearly two months later, at the end of April 2023. CF, p. 382. He was admitted to CMHHIP another month later, he was once again forcibly medicated, and he was ultimately found competent on September 1, 2023. CF, pp. 392, 404-06; TR 9/1/2023, pp. 3:11-4:14. Mr. Vernagallo finally stood trial in October of 2023, 26 months after charges were filed. *See generally* TR 10/9/2023; TR 10/10/2023.

Throughout those 26 months, through various *pro se* pleadings and comments at hearings, Mr. Vernagallo repeatedly and strenuously asserted his right to a speedy trial; argued further delays were unjustified, and the case was straightforward; and moved to dismiss his case on speedy trial grounds. *See, e.g.*, CF, pp. 55, 69, 81, 108, 181, 215, 227, 297; TR 9/23/2022, pp. 3-4. In addition, his mother—who is also the victim's mother—repeatedly contacted the court and spoke at hearings, urging that Mr. Vernagallo simply required mental health treatment, and explaining the lengthy delays and legal proceedings were causing harm to Mr. Vernagallo and the family

as a whole. CF, pp. 111, 237-39, 300, 534-36; TR 4/20/2023, pp. 6-7; TR 9/1/2023, pp. 6-9; TR 12/15/2023, pp. 5-8.

When Mr. Vernagallo finally stood trial, a jury convicted him as charged, and he was sentenced to probation. CF, pp. 497-500; TR 12/15/2023, p. 17:3-9.

REASONS FOR GRANTING THE WRIT

I. THE DELAYS CAUSED BY CMHHIP'S BACKLOGS DEPRIVED MR. VERNAGALLO OF HIS RIGHT TO A SPEEDY TRIAL.

A. Standard of Review and Preservation

This issue was preserved by Mr. Vernagallo's numerous written pleadings and oral statements asserting his Sixth Amendment right to a speedy trial, and moving to dismiss on that basis. Opinion, ¶ 15; *see, e.g.*, CF, pp. 55, 69, 81, 108, 181, 215, 227, 297; TR 9/23/2022, pp. 3-4. Though trial counsel did not make the same objection, an issue may nonetheless be preserved by a defendant's *pro se* statements, particularly when his position is contrary to his trial attorney's position. *See, e.g., People v. Bergerud*, 223 P.3d 686, 693 (Colo. 2010) (issue preserved by represented defendant's *pro se* argument).

Speedy trial claims are reviewed de novo. *People v. West*, 2019 COA 131, ¶ 7.

B. Discussion

Mr. Vernagallo had a constitutional right to a speedy trial. Colo. Const. art. II, § 16; U.S. Const. amends. VI, XIV. The State and the trial court bear the burden of honoring this constitutional guarantee. *Barker v. Wingo*, 407 U.S. 514, 527 (1972) (“A defendant has no duty to bring himself to trial”).

To decide whether the right to a speedy trial was violated, this Court considers four factors: (1) the length of the delay; (2) the reasons for the delay; (3) the defendant’s assertion of his right to a speedy trial; and (4) prejudice to the defendant. *Barker*, 407 U.S. at 530-32; accord *Moody v. Corsentino*, 843 P.2d 1355, 1363 (Colo. 1993). These factors show that Mr. Vernagallo was denied his constitutional right to a speedy trial:

1. Length of the delay

First, this Court considers how long the trial is delayed. Unlike the statutory speedy trial right, which attaches at the time of the not guilty plea, the constitutional right attaches when the defendant is charged. *Moody*, 843 P.2d at 1363. The acceptable delays vary with the seriousness and complexity of the case. *Barker*, 407 U.S. at 530-31. Despite that variation, courts generally hold that a one-year delay is enough to be presumptively prejudicial. *People v. Glaser*, 250 P.3d 632, 635 (Colo. App. 2010).

This was a straightforward case: there were only two counts, for the same low-level felony offense, arising from a single incident; the trial took less than two full days, from voir dire to the verdict; and only three witnesses testified. However, it took over two years—a few days shy of 26 months, to be precise—from when Mr. Vernagallo was charged till the start of his trial. *See* CF, p. 18 (charges filed 8/13/2021); TR 10/9/2023 (trial began 10/9/2023).

Accordingly, the delay was not just long enough to be presumptively prejudicial and require analysis of the remaining factors. Rather, at more than double the cut-off point for presumptive prejudice, it was so long that it weighs heavily in favor of finding a Sixth Amendment violation—particularly in light of the exceedingly straightforward nature of the case.

2. Reasons for the delay

Second, the Court considers the propriety and importance of the reasons for the delay. A willful attempt by the State to delay trial weighs heavily in favor of finding a violation. *Barker*, 407 U.S. at 531. Crowded dockets, while given less weight, are still held against the State, since it is the State’s job to promptly bring defendants to trial. *Id.* Only a compelling reason, such as a missing witness, serves to excuse a delay. *Id.*

Many of the delays were attributable to Mr. Vernagallo's three rounds of competency proceedings. At first blush, this seems like a justifiable delay, which can't be held against the State—after all, it's not the State's fault if Mr. Vernagallo was incompetent to proceed. A closer examination, however, illustrates that much of the delay was not the time it actually took to restore Mr. Vernagallo to competency, but rather the delays having him evaluated and/or admitted to CMHHIP:

- The first time defense trial counsel raised competency, it took 28 days from when defense counsel filed their motion until Mr. Vernagallo was found incompetent. (9/9/2021 – 10/7/2021: CF, p. 25; TR 10/7/2021, pp. 4:9-5:5:5)
- It then took another 112 days for Mr. Vernagallo to be admitted to CMHHIP. (10/7/2021 – 1/27/2022: CF, p. 126)
- The second time defense trial counsel raised competency, it took 65 days for him to be evaluated and found competent. (8/31/2022 – 11/4/2022: CF, p. 180; TR 11/4/2022, pp. 3:25-4:2)
- The third time defense trial counsel raised competency, it took 52 days for him to be evaluated and found incompetent. (3/6/2023 – 4/27/2023; CF, pp. 350, 382)

- It then took another 25 days for him to be admitted to CMHHIP for restoration. (4/27/2023 – 5/22/2023; CF, pp. 382, 392)

The above delays total 282 days, or over nine months. Similar to docket congestion, delays with CMHHIP are attributable to the State: it is ultimately the State's burden to comply with the speedy trial guarantee, and thus its burden to provide adequate staffing and funding to the bodies necessary to effectuate that promise. *Cf. Vermont v. Brillon*, 556 U.S. 81, 85 (2009) (State's responsibility to adequately fund and manage all state agencies involved in bringing defendant to trial, including public defender system).

By contrast, only 154 days, or about five months, were lost to Mr. Vernagallo's restoration: 1/27/2022 to 2/24/2022 (28 days), and 4/27/2023 to 8/31/2023 (126 days). CF, pp. 126, 137-42, 382, 415-25.

Thus, of the twenty-six months Mr. Vernagallo awaited trial, only about five were necessary to restore him to competency—perhaps even less, as the third set of competency proceedings may not have been necessary had Mr. Vernagallo been tried speedily. That leaves *twenty-one months*—a year and three quarters—of delays attributable to CMHHIP, the judicial system, or other state actors.

Routine, resourcing-related delays cannot be used to justify violations of the Sixth Amendment right to a speedy trial. *See Barker*, 407 U.S. at 538 (White, J.,

concurring). Indeed, a right that can be overcome by day-to-day logistical concerns is no right at all. *See, e.g., Ramos v. Louisiana*, 590 U.S. 83, 100 (2020) (Sixth Amendment rights should not be subject to cost-benefit analyses); *Crawford v. Washington*, 431 U.S. 36, 61-64 (2004) (same). Accordingly, the reasons for the delay also weigh in favor of finding a Sixth Amendment violation.

3. The defendant's assertion of his speedy trial right

Third, “[t]he defendant’s assertion of his speedy trial right... is entitled to strong evidentiary weight in determining whether the defendant is being deprived of the right.” *Barker*, 407 U.S. at 531. As discussed above, Mr. Vernagallo strenuously and repeatedly asserted his right to a speedy trial throughout the proceedings below, and moved to dismiss his case on that basis.

The court of appeals gave this factor little weight because counsel did not press the issue and Mr. Vernagallo’s *pro se* assertions didn’t include detailed legal argument. Opinion, ¶¶ 31-33. However, this factor isn’t about whether the trial court was presented with the correct arguments, or whether those arguments were adopted by counsel. Rather, this factor matters because it serves as a proxy of sorts for prejudice to the defendant. *Barker*, 407 U.S. at 531-32. The more frequently and strenuously a defendant asserts his right to a speedy trial, the more it shows the

delays are doing him harm. Thus, understood correctly, this factor weighs heavily in favor of finding a violation.

4. Prejudice to the defendant

Finally, this Court considers the prejudice to the defendant. *Barker*, 407 U.S. at 532. The defendant need not show that his ability to present a defense was directly impaired. *Doggett v. United States*, 505 U.S. 647, 655 (1992) (“specifically demonstrable” or “particularized” prejudice is not required, in part because it is difficult to prove). Rather, a defendant may suffer prejudice from the anxiety and concern of a lengthy period awaiting trial. *Barker*, 407 U.S. at 532. In particular, a lengthy period of “oppressive pretrial incarceration” is inherently prejudicial. *Doggett*, 505 U.S. at 654. Mr. Vernagallo served 552 days¹ of pretrial incarceration in this case, during which he reported he was often on 24/7 lockdown, denied meals and hygiene, and assaulted both physically and sexually. CF, pp. 63, 70, 97, 244. His incarceration exacerbated his mental health struggles, both due to the inherent

¹ When Mr. Vernagallo’s probation was revoked in the summer of 2024, he was awarded 594 days of presentence confinement credit. *See* Mittimus issued 9/6/2024, Douglas Dist. Ct. Case 21CR736, available on E-Filing; *People v. Linares-Guzman*, 195 P.3d 1130, 1136-37 (Colo. App. 2008) (court may take judicial notice of district court records from e-filing). He was arrested for the revocation on 7/26/2024 and resentenced on 9/6/2024, so 42 days are attributable to that period, leaving 552 days attributable to pre-trial incarceration. *See id.*; Pretrial Bond Report filed 7/29/2024, Douglas Dist. Ct. Case 21CR736, available on E-Filing.

nature of incarceration, and his lack of access to mental health treatment in jail. CF, pp. 111, 237, 239, 300, 535-36. His anxiety and distress during that time are clear from the tone of his many *pro se* filings and comments at hearings. *See, e.g.*, CF, pp. 55, 69, 81, 108, 181, 215, 227, 297; TR 9/23/2022, pp. 3-4.

In sum, Mr. Vernagallo faced over two years of pretrial incarceration, on two class five felonies, arising out of the same incident, requiring the testimony of only three witnesses. The majority of that time was attributable to state actors, he repeatedly asserted his right to a speedy trial, he was incarcerated for the majority of that time, and his incarceration was prejudicial to his mental health and personal safety. Mr. Vernagallo's constitutional right to a speedy trial was violated.

C. Certiorari

The State argued below that CMHHIP backlogs do not count against the State at all in the constitutional speedy trial analysis. Opinion, ¶ 27. Though the division stated it was “troubled” by the State's argument, it avoided the question by finding the delays were insufficient to establish a violation regardless. *Id.*, ¶ 28. As discussed above, the court of appeals misapplied factor 3—the defendant's assertion of his speedy trial right—to reach that conclusion. Accordingly, Mr. Vernagallo asks this Court to grant certiorari to apply the *Barker* framework correctly and decide how CMHHIP backlogs should be weighed in a constitutional speedy trial claim.

CONCLUSION

For the reasons stated herein, Vincente Tyler Vernagallo requests that this Court grant this Petition for Writ of Certiorari.

MEGAN A. RING
Colorado State Public Defender



RIVER B. SEDAKA, #50258
Deputy State Public Defender
Attorneys for Vincente Tyler Vernagallo
1300 Broadway, Suite 300
Denver, CO 80203
(303) 764-1400

CERTIFICATE OF SERVICE

I certify that, on July 2, 2026, a copy of this Petition for Writ of Certiorari was electronically served through Colorado Courts E-Filing on Caitlin E. Grant of the Attorney General's Office.


