

Toolkit



# RIGHT TO A SPEEDY TRIAL

**ACLU**  
**WI**

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## WARNING

This toolkit is only intended for incarcerated persons facing criminal charges who **are not** represented by an attorney.

**There are often good reasons not to file the documents in this toolkit.** For example, it might be in your best interest to wait to have an attorney appointed to you, to allow time for your attorney to investigate the facts, find witnesses and evidence that could support your case, or to negotiate a plea, and many other reasons depending on your circumstances and the particular issues in your case.

The example motions and information provided by this Toolkit are meant to help you understand the legal process and how to assert your legal rights. Nothing within this Toolkit is meant to be legal advice, and it does not contemplate your individual circumstances. Using these materials does not make you a client of the American Civil Liberties Union of Wisconsin Foundation or any of its attorneys.

The laws of Wisconsin and county-specific court rules can be complicated, and your situation may be different from others. The information included is meant to be tailored to your situation based on your own individual circumstances. **If you have specific questions about your case, you should talk to a licensed attorney in your area.** If you have an attorney you should consult your attorney. If you don't have an attorney, you will almost always be better served by hiring an attorney or waiting for one to be appointed to you rather than trying to represent yourself. Do not send any of the materials in this toolkit to a Court if you are currently represented by counsel unless you talk to them first.

# YOU HAVE A RIGHT TO A SPEEDY TRIAL

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*“In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.”*

–The Sixth Amendment of the United States Constitution

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*“In all criminal prosecutions the accused shall enjoy the right to . . . a speedy public trial by an impartial jury of the county or district wherein the offense shall have been committed.”*

– Article One Section Seven of the Wisconsin State Constitution

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*“The history of the right to a speedy trial and its reception in this country clearly establish that it is one of the most basic rights preserved by our Constitution.”*

– Klopfer v. State of N.C., 386 U.S. 213, 226 (1967)

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Both of these constitutions guarantee individuals charged with a crime the right to have a speedy trial. While under the Wisconsin constitution the right to a speedy trial is tied to custody status, under the Federal constitution, the right to a speedy trial applies regardless of a person's privilege of being out of custody so long as the person has been charged and entered a not guilty plea.

**This right must be asserted by the accused and only the court may determine if it has been violated.**

# Glossary of Terms

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## **Bench Warrant**

A bench warrant is a warrant for your arrest issued by a judge. This is usually issued because you failed to appear at a scheduled hearing or court event. This is different from an arrest warrant, which is generally ordered by the District Attorney or judicial official based probable cause.

## **CCAP**

Stands for Circuit Court Access Program. This is the website that tracks all court activity in any case you may have. You can access CCAP to review court records and information at <https://www.wicourts.gov/casesearch.htm>.

## **Pro Se**

Means to proceed without counsel. You are in charge of representing yourself in your case. Please note that this means that you will be held to the same rules and procedures required by the court.

## **“Speedy” trial**

A trial that must be scheduled within a specific time frame depending on the type of case you are charged with. This is a right within our state and federal laws that should guarantee that your trial occurs or another remedy may be requested. You are entitled to a speedy trial under federal law even if you are not in custody.

## **Misdemeanor vs Felony**

A misdemeanor is generally any crime that you could spend up to a year in jail for. A felony is generally any crime that you could spend more than a year in jail for. Felonies and enhanced misdemeanors are the only crimes for which you may spend time in prison for.

## **Jail vs Prison**

A jail is generally a county facility meant to hold persons who are charged with, might be charged with, or are convicted of charges in that county. A prison is generally a state facility, usually run by the state Department of Corrections, meant to hold persons who have been convicted of a felony or enhanced misdemeanor and are expected to spend more than a year in custody in total.

## **Continuance**

Is a term that may also be referred to as a status or scheduling conference, or simply a rescheduling of your court date to a different day. It means that one or more parties has requested additional time for what the court has considered a legitimate reason. This may also be decided by the court itself if the court no longer has time to hear your case that day.

## **Arraignment**

Is the hearing where you must enter your not guilty plea. This happens at your initial appearance if you are charged with a misdemeanor or at your preliminary hearing if you are charged with a felony. Arraignment is not the same as a change of plea hearing.

## **Signature Bond**

A signature bond is an order by the court that gives you the opportunity to attend court will out of custody. This type of bond will almost always come with conditions that you must follow in order to maintain that privilege. It is also known as a personal recognizance or PR Bond. You may hear the words “release on your own recognizance.”

## **Time Limit Waiver Request**

This is a request your lawyer may make any time you have asserted a right that requires the court to conduct a certain type of hearing within a specific time frame. In reference to this toolkit it refers to you and your lawyer deciding to ask the court to in essence take back your speedy trial request.

## **GPS Bracelet**

A GPS bracelet is a monitoring bracelet that tracks your whereabouts and curfew if necessary. GPS may only be ordered by the court as a condition of release from custody. GPS is not the same as huber release, also known as house arrest.

## **Arrest Warrant**

Is generally a warrant issued by the District Attorney but in some cases it is a warrant drafted by an officer but issued by a judicial official. Both refer to a warrant issued prior to an initial appearance and in some cases before charges are officially filed.

# Frequently Asked Questions

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## Can a family member fill this out for me?

No. It is not advised to have a family member fill out the motions for you. It is your motion, you must personally sign the motion, and only you are a party to your case. If a family member fills it in for you they may be accused of practicing law without a license.

## Can a family member submit one of these motions for me?

Yes, a family member can submit the motion for you by mailing it to the county clerks office using the directions under “filing your motion.”

## What if I cannot read or write very well?

If you have one of these disabilities it is recommended to request that the court appoint an attorney for you verbally. It will be extremely hard to rely on others within your cell, unit, or family to read things to you or write things you tell them without making them subject to a court request to appear and share any information they may have about your case.

However, it is your right to file one of these motions, if needed. Everything you must include in each motion must be your own words. The person writing for you cannot change what you say or make things up for you. It is important that these are your words and not theirs. Make sure that you trust who is helping you.

## Where do I get my case number?

You can get your case number from any documents that have been filed in your case. It is read before every court hearing starts and you may request that the court, clerk, or deputy write down for you. You can get this number from CCAP, the website that tracks all of the court dates and information regarding your case. If you have web access you can type in [wcca.wicourts.gov/case.html](http://wcca.wicourts.gov/case.html). Enter your last name, first name, and the county you were charged if you know it. Press search. If you have more than one case you may have to click on the drop-down menu under “case status” and select “open.” If you have multiple open cases, you will have to click on each entry link under “case number” to look at the charges for each case so that you can find the case you want to file the motion for.

## Do I need to include my branch number?

This information is only important if your case is in Milwaukee, Dane, or Waukesha county. If your case is in another county you may ignore this information.

## Where do I find my Judge’s name and branch number?

See “how do I get my case number?” This information will be on the same page on CCAP in the specific case you are looking for.

## What if the name I used is different from the name of my case?

You must use the name listed in your case in the very first blank on the motion where it lists the State of Wisconsin v. *Your Name* also known as the caption. You may put aka after and put your preferred name. After that you may use your preferred name.

## What if I don’t have funds to print this motion?

You may handwrite your motion from the templates within this toolkit as an alternative. Please remember to take your time and include all information.

## What if I don’t have funds to mail this motion?

If you cannot mail the motion to the court you may request that the motion be filed at your next court hearing.

## What things should I not include with my motion?

Do not include anything that you cannot support with documentation that you have access to or any facts or statements that are not completely true. Do not include anything that does not answer the blanks provided for you. For example, you say that you have been waiting for 5 years but you were in warrant status for 3 of those years you should not say 5 years. Or if you have issues with the evidence in the case the motions included are not the correct motions to file to address those issues. The court is unlikely to consider that information and it may hurt your overall outcome of the motion.

## Frequently Asked Questions (continued)

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### **Is it important to include my signature on the motion?**

Yes. You must sign anything you submit to the court. If you cannot write in cursive, you may print your name.

### **How do I know if I am eligible for a public defender?**

You should have been told whether you are eligible for public defender representation at your initial appearance by a State Public Defender, support staff, or the court. However, if you do not remember you should reach out to your local State Public Defenders Office (You can find your local office at <https://www.wisspd.gov/find-your-public-defender/>).

### **I am out of custody, is there anything that I can do to expedite my trial?**

While you can file a speedy trial demand, unfortunately, this is not likely to provide you the relief you seek. The reason your trial is not occurring is likely due to a combination of issues unrelated to you directly. First, the shortage of public defenders. Not everyone has an attorney and this can cause additional delays in scheduling especially if the court system is prioritizing other case types or in custody persons over your case. Second, the lack of available time in front of the court to conduct a trial. Courts need at least two days to conduct a trial, can only conduct one trial at a time, and many court systems have specific days on which trials may start due to jury availability. This limits the available slots the court has to schedule trials. Lastly, the court will almost always prioritize cases where the accused is in custody or the case has an alleged victim.

Two things you can do that may help future accused persons. First, you can assert your speedy trial right and discuss meaningful responses that may institute some change with your attorney if the court does not enter your speedy trial demand on the record. The second thing you can do is become active in the community and legislature to advocate for meaningful solutions such as more attorneys, more circuit court branches, or more conservative charging practices.

# Request For A New Attorney

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**This is a verbal request to the court to change your current attorney.**

You should tell your attorney first of this request and attempt to resolve any issues prior to your request. Remember you are entitled to a competent attorney not the attorney of your choosing. If you still would like a new attorney your attorney is obligated to inform the court of your wishes and you are entitled to express your issues with your current attorney to the court. It should be noted that any information you provide the court is not protected by attorney client privilege.

**Reminder:** you can request a new attorney if any of these apply but approval by the court is required for actual appointment of a new attorney

**Should I file a request for a new attorney?**

- My attorney has not spoken to me for more than 3 months and has not provided me any written communication about my case
- I have sent the form letter requesting contact with my attorney and they have not responded within 2-3 weeks
- I believe that my attorney is not working through my case with me. This means that the conversations you do have with the attorney are not productive or they are not hearing your ideas (your attorney must listen to you and investigate if necessary but does not have to use your strategy in trial)
- My attorney is excessively rude, demeaning, or condescending to me, **AND** this is the first attorney appointed on my case.

# Speedy Trial Time Limit Waiver

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**This is a verbal or written request by your attorney that asks the court to delay your trial date.**

**Reminder:** If one these applies and you now have an attorney

**Should I ask my attorney to file a speedy trial time limit waiver request?**

- My attorney and I have spoken and decided that it is the most beneficial way to proceed
- There are additional things that need to be done on my case
- I now have an attorney and need to discuss the case further with them
- My attorney or I have discovered evidence is missing from my case
- There are motions that may still need to be filed or explored that I cannot file for the court to decide before my trial date

# Speedy Trial Demand

**This form motion is meant to assert your state and federal right to a speedy trial. Filing this motion should start the countdown for the amount of time the court has to schedule your trial.**

## Should I file the pro se speedy trial demand?

- I do not have an attorney;
- I have heavily considered the risk that I or my future attorney may be less prepared for a sooner trial;
- I have possession of the evidence against me and any evidence I would need at trial;
- I have first considered filing the pro se bail reduction motion first;
- I have considered that even if I am innocent, a quicker trial may not result in being found not guilty and I have considered the following:
  - I have considered any issues or gaps within the evidence or the need for further investigation that might be needed to be successful at trial, AND
  - I understand that trials are unpredictable, that juries are all very different in what they think is important to determine innocence or guilt, and a jury verdict and trial can rarely be undone.

## Instructions to fill out the speedy trial demand

### All of the information you fill in is your specific information.

The information must match what is in your case on CCAP and any official court documents like your criminal complaint. This is important so that the Clerk of Court knows which judge to give your motion.

- ① The next blank you will see is one right above the word “COUNTY.” In that blank you should put the name of the county that has charged your case. This may be different from the county you are incarcerated in or live in. The county you use will be the same one listed in CCAP next to your case number or at the top of any official court documents such as your criminal complaint. Any blank where it says “your name” you should write your full first and last name.
- ② The next blanks you will see on this motion are for you to add the month and date. This should be the month and date that you are filling out the motion not the date of the alleged crime, or your next court date. To preserve your rights it is important that you only put the date you fill in the motion.
- ③ To the right of this blank is a blank that asks you to put in the city you are in. This is the city you are charged in. It may be the same name as the county.
- ④ Lastly there is a blank to the left of the word “defendant”. This is your signature if you have one. While it is not necessary to write in cursive it is necessary to include your name. Do not leave this blank. Once you have filled in all sections you are ready to file. Go to the section of this packet titled “FILING YOUR MOTION” and look for the instructions for filing this motion in the county you are charged in.

STATE OF WISCONSIN	CIRCUIT COURT	① COUNTY	<i>For Official Use</i>
STATE OF WISCONSIN, Plaintiff,	v.	Case No. _____	
_____ , Defendant.			
<b>DEFENDANT'S CONSTITUTIONAL AND STATUTORY DEMAND FOR A SPEEDY TRIAL OR PROMPT TRIAL DUE TO DELAY</b>			
<p>_____, the defendant, reserving the right to challenge the court's jurisdiction, demands a speedy trial. <b>The defendant brings this motion pursuant to the 6th and 14th Amendments to the United States Constitution; Article I, Sections 6 and 7 of the Wisconsin Constitution; and section 971.10 of the Wisconsin Statutes.</b> See <i>U.S. v. Loud Hawk</i>, 474 U.S. 302, 312 (1986); see <i>MacDonald</i>, 456 U.S. at 9-10; <i>U.S. v. Fuesting</i>, 845 F.2d 664, 668-69 (7th Cir. 1988); see <i>Hatcher</i>, 83 Wis. 2d at 569, 266 N.W.2d at 325 (quoting <i>Barker</i>, 407 U.S. at 532, 92 S.Ct. at 2193)</p>			
Dated _____, 20____ in _____,		_____ , Wisconsin.	
			Respectfully submitted,
			④ _____, Defendant

See next page to complete form →



# Request For A Court-Appointed Attorney

**Filing this motion asks the court to appoint an available private bar attorney to represent you in your case because you do not currently have an attorney.**

**Reminder:** while you can file this motion at any point, please only file this if you can check all boxes in this section.

## Should I file the form motion to request a court-appointed attorney?

- You are eligible for a public defender (see FAQ section of this Toolkit);
- You have a felony case that has not had a preliminary hearing; **AND**
- You have waited over 60 days for a Public Defender to be appointed **OR**
- You have been told that your case is a conflict for the public defender’s office.

## Instructions to fill out the attorney appointment

### All of the information you fill in is your specific information.

The information must match what is in your case on CCAP and any official court documents like your criminal complaint. This is important so that the Clerk of Courts knows what judge to give your motion to.

- 1 The next blank you will see is one right above the word “COUNTY”. In that blank you should put the name of the county that has charged your case. This may be different from the county you are incarcerated in or live in. The county you use will be the same one in CCAP next to your case number or at the top of any official court documents such as your criminal complaint. Any blank where it says “your name” you should write your full first and last name.
- 2 The next blanks you will see on this motion are for you to add the month and date. This should be the month and date that you are filling out the motion not the date of the alleged crime, or your next court date.
- 3 To the right of this blank is a blank that asks you to put in the city you are in. This is the city you are charged in. It may be the same name as the county.
- 4 Lastly there is a blank to the left of the word “defendant”. This is your signature if you have one. While it is not necessary to write in cursive it is necessary to include your name. Do not leave this blank. Once you have filled in all sections you are ready to file. Go to the section of this packet titled “FILING YOUR MOTION” and look for the instructions for filing this motion in the county you are charged in.

STATE OF WISCONSIN    CIRCUIT COURT	1	For Official Use
STATE OF WISCONSIN, Plaintiff,	COUNTY	
v.	Case No. _____	
Defendant.		
<b>PETITION FOR A COURT APPOINTED ATTORNEY</b>		
<p><b>I DECLARE THAT</b> because of poverty, I am unable to pay for an attorney to represent me in this case. I petition the court for appointment of an attorney.</p> <p>_____(your name), the defendant respectfully requests that this Court appoint counsel at a rate and under terms deemed appropriate. I was found eligible for a state public defender in this case on. The state public defender has not appointed an attorney to represent me within a reasonable time due to staffing shortages. I am entitled to an attorney under the 6<sup>th</sup> Amendment to the United States Constitution, Article 1, section 7 of the Wisconsin State Constitution. Court appointed counsel is an appropriate request. <i>Gideon v. Wainwright</i>, 372 U.S. 335, 344, 83 S. Ct. 792(1963) (reasoning that a fair trial requires counsel to be provided); <i>Douglas County v. Edwards</i>, 137 Wis.2d 65 (1987), (reaffirmed by <i>State ex rel. Charkas v. Skow</i>, 160 Wis.2d 123, 465 N.W.2d 625 (1991).), <i>State v. Dean</i>, 163 Wis. 2d 503 (Ct. App. 1991), <i>State v. Scarborough</i>, 55 Wis.2d 181 (1972))(stating that appointment of counsel by the public defender’s office is not the only means of appointment of counsel); <i>State v. Lee</i>, 2021 WI App 12, ¶ 30, 396 Wis. 2d 136 (stating that circuit courts retain the authority to appoint counsel themselves).</p>		
Dated _____,	20____	in _____, Wisconsin.
Respectfully submitted,		
_____, Defendant		

See next page to complete form →



## Motion to Modify or Reduce Bail

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**This motion is meant to ask that the court reconsider your bail in either the amount or specific conditions. Filing this motion does not guarantee a change in your bail and will always allow the district attorney to ask for a higher bail or additional conditions.**

**Reminder:** If any of these apply you can file this motion. However, being able to check multiple boxes, especially boxes two, four, or five may increase your chance of a successful reduction in bail.

### Should I file a request for change in my bail?

- I cannot afford my bail;
- I have a limited or no criminal history OR I have a significant criminal history that includes crimes of violence, but it is more than 10 years old;
- I believe my assigned judge will consider a different bail amount or conditions of bail than the previous judge or commissioner.
- I am requesting a review from my assigned judge and something substantial has changed in my case. Examples include:
  - New living arrangements
  - I have completed some form treatment
  - I have a specific amount of money that my family could post on my behalf
  - I have gone above and beyond the court's rules set for my bail
- If I am charged with a violent crime, I am able to discuss the court's worries. For example:
  - I have some means of ensuring that no contact will be made with alleged victim(s)
  - I have plans to complete some form of treatment to address the court's concerns
- I understand that if I file this request without an attorney appointed to my case the court may not make a decision on my bail until one is appointed or I have decided to represent myself.

See back page for instructions to complete form →





**Conclusion**

Given the new developments in my case or lack of income I respectfully request that the court modify my current bail.

Dated \_\_\_\_\_, 20\_\_\_\_ in \_\_\_\_\_, Wisconsin.

Respectfully submitted,

\_\_\_\_\_, Defendant

# Motion to Dismiss for Failure to Provide a Speedy Trial

**This motion to dismiss is filed where the court has not been able to adhere to your speedy trial demand. Depending on the circumstances this motion may not result in dismissal but should result in some positive consequence for your case.**

**Reminder:** If you cannot check all the boxes below **it is not recommended** that you file this motion. In some counties a court may consider whether you have unpaid cash bail in other open cases or are currently serving a sentence.

### Should I file a pro se motion to dismiss because I did not receive a speedy trial?

- I have previously filed (or requested in open court) a speedy trial demand;
- I have been awaiting trial past the 60 day period for misdemeanors and I am in custody, **OR** I have a felony charge and I have been waiting for about one year in custody;
- I do not have an attorney appointed to me;
- A bench warrant has never been entered for me in this case;
- I have not contributed to my trial being delayed (by requesting a continuance, for example, including any actions by a current or former attorney on my behalf).

## Instructions to fill out the motion to dismiss

All of the information you fill in is your specific information. The information must match what is in your case on CCAP and any official court documents like your criminal complaint. This is important so that the Clerk of Courts knows what judge to give your motion to.

**1** The next blank you will see is one right above the word "COUNTY". In that blank you should put the name of the county that has charged your case. This may be different from the county you are incarcerated in or live in. The county you use will be the same one in CCAP next to your case number or at the top of any official court documents such as your criminal complaint. Any blank where it says "your name" you should write your full first and last name.

**2** Under the section titled "Statement of Facts" you will need the following information: your list of charges, the date you were charged, the date you entered you not guilty plea, the date you filed the speedy trial request, the date you are filing this motion, the exact number of days you have been in custody, what the court believes is the reason you have not had your trial, whether the district attorney has asked for an adjournment and why. It is extremely important that you consider the courts or district attorneys' point of view as well so that you may be taken more seriously in your request.

**In #1** include your full list of charges on the first two blank lines. If you need more space, write the phrase " see attachment" and then put them on a separate blank page. The next blank in #1 is where you will write the date you were charged. Include the exact date. It will be on your complaint or in CCAP. This is not the same date as the date of the allegations.

**In #2** on the blank write the date you entered your not guilty plea. This would be the same date of your initial appearance if you were charged with a misdemeanor crime. If you were charged with a felony it may have been the same date as your preliminary hearing or at a separate hearing called an arraignment. You will need to check CCAP to determine which of these dates to use.

STATE OF WISCONSIN    CIRCUIT COURT	<b>1</b>	<i>For Official Use</i>
STATE OF WISCONSIN, Plaintiff,	COUNTY	
v.	Case No. _____	
Defendant,		
<b>DEFENDANT'S MOTION TO DISMISS FOR VIOLATION OF DEFENDANTS CONSTITUTIONAL AND STATUTORY RIGHT TO SPEEDY TRIAL</b>		
<p>_____, the defendant, respectfully moves the Court to dismiss the above captioned case with prejudice for failure to provide a speedy trial or prompt scheduling of a trial due to extended delay. This motion is brought pursuant to the 6<sup>th</sup> and 14<sup>th</sup> Amendment of the United States Constitution Article I, Sections 6 and 7 of the Wisconsin Constitution, and applicable case law including <i>Barker v. Wingo</i>, 407 U.S. 514 (1972); <i>Watson v. State</i>, 64 Wis. 2d 264 (1974); and <i>Green v. State</i>, 75 Wis. 2d 631 (1977).</p>		
<b>2</b> STATEMENT OF FACTS		
1. I was charged with _____		
on or about _____, 20____		
2. I was arraigned on or about _____, 20____ and entered a plea of not guilty.		
3. I made a formal demand for speedy or prompt trial on _____, 20____.		
4. Despite this demand, trial has not commenced as of _____, 20____ a delay of approximately _____ months/years.		
5. The continuances and delays have occurred due to: (circle one) State's request for reschedule/ receiving discovery late/ lack of witness availability/ court congestion/ or (explain below) _____		
6. I have consistently asserted their right to a speedy trial and has not contribute to or consented to any delay.		



# Instructions to fill out the motion to dismiss (continued)

7 The final section, titled “How This Delay Has Prejudiced Me” there are three parts you fill in.

**Under “a.”** fill in the number that you entered in #4 of the Facts section. You can include additional info but it is not recommended here.

**Under “b.”** you MUST include specific examples of personal and emotional distress. Without this information you will have a harder time being taken seriously. You can include anything such as development of diagnosis illnesses (with doctors notes), severe weight loss, unchecked medical conditions, concern about your safety in custody, inability to know what the true outcome of your case is, emotional distress over familial issues, or really anything that has caused you to become more stressed awaiting trial. Specific information is key. Give as much detail as possible so that the court can understand the true affect the wait has had on your life. If you need more room, please write “see attachment” and write your answer on a separate page.

8 The last things you fill in on this motion are the date you are sending out your motion to be filed, the city, and your signature. Do not leave this blank. Once you have filled in all sections you are ready to file. Go to the section of this packet titled “FILING YOUR MOTION” and look for the instructions for filing this motion in the county you are charged in.

7 4. How This Delay Has Prejudiced Me

The Court in *Hatcher*, 83 Wis. 2d at 569 identified three interests protected by the speedy trial right: (1) preventing oppressive pretrial incarceration, (2) minimizing anxiety and concern; and (3) limiting the possibility that the defense will be impaired. I have suffered prejudice in all three respects:

a. Oppressive pretrial incarceration: I have remained in custody for \_\_\_\_\_ months/years while awaiting trial.

b. Anxiety and concern: The pending charges have caused substantial personal and emotional stress. (Please list any **anxiety or stress** you have suffered during this wait time)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

c. Impairment of defense: Witness memories have faded, evidence has become stale, and defense investigation has been hampered by the delay.

**CONCLUSION**

Balancing the *Barker* factors demonstrates that my constitutional right to a speedy trial has been violated. The delay is excessive, largely attributable to the State, and has caused actual prejudice to me. Accordingly, dismissal with prejudice is the only appropriate remedy.

8 Dated \_\_\_\_\_, 20\_\_ in \_\_\_\_\_, Wisconsin.

Respectfully submitted,

\_\_\_\_\_, Defendant

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See next 3 pages to complete form →



## ARGUMENT

Under *Barker v. Wingo*, the United States Supreme Court established a balancing test to determine whether a defendant's constitutional right to a speedy trial has been violated. The four factors to be weighed are:

- (1) the length of delay;
- (2) the reason for the delay;
- (3) the defendant's assertion of the right; and
- (4) prejudice to the defendant.

See *Barker*, 407 U.S. at 530. Wisconsin courts have adopted this analysis in *Watson v. State*, 64 Wis. 2d 264 (1974), and reaffirmed it in *Green v. State*, 75 Wis. 2d 631 (1977).

### 1. Length of Delay is Presumptively Prejudicial Against Me

The delay of \_\_\_\_ months/years between my speedy trial demand and the present date is presumptively prejudicial under *Barker*. Wisconsin courts have found that **delays over a year** may trigger a constitutional inquiry. See *Watson*, 64 Wis. 2d at 268-69. The delay here is sufficiently long to require further analysis under the remaining *Barker* factors.

### 2. The Reason for the Delay Is Inexcusable

The burden rests on the State to justify the delay. See *Green*, 75 Wis. 2d at 636-37. Here, the delay has primarily resulted from (circle one): prosecution's lack of diligence in preparing discovery/repeated continuances requested by the State/continued lack of physical production by the state/lack of witness availability/systemic court congestion or (insert reason below):

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While some delays may be neutral, others are attributable to the State's negligence or failure to timely prepare the case. *Id.* Such delays weigh against the State, and I ask that these reasons be found inexcusable.

### 3. I Have Asserted My Right to a Speedy Trial

I unequivocally asserted my right to a speedy trial by filing a demand on \_\_\_\_\_ **I have not waived this right, nor consented to continuances, and have objected to delays throughout the proceedings.**

4. How This Delay Has Prejudiced Me

The Court in *Hatcher*, 83 Wis. 2d at 569 identified three interests protected by the speedy trial right: (1) preventing oppressive pretrial incarceration; (2) minimizing anxiety and concern; and (3) limiting the possibility that the defense will be impaired.

I have has suffered prejudice in all three respects:

- a. Oppressive pretrial incarceration: I have remained in custody for \_\_\_\_\_ months/years while awaiting trial.
- b. Anxiety and concern: The pending charges have caused substantial personal and emotional stress. (Please list any **anxiety or stress** you have suffered during this wait time)

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- c. Impairment of defense: Witness memories have faded, evidence has become stale, and defense investigation has been hampered by the delay.

**CONCLUSION**

Balancing the *Barker* factors demonstrates that my constitutional right to a speedy trial has been violated. The delay is excessive, largely attributable to the State, and has caused actual prejudice to me. Accordingly, dismissal with prejudice is the only appropriate remedy.

Dated \_\_\_\_\_, 20\_\_\_\_ in \_\_\_\_\_, Wisconsin.

Respectfully submitted,

\_\_\_\_\_, Defendant

## County filing information

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### Adams

401 Adams St Ste 6  
Friendship, WI 53934  
Address to the Clerk of Courts Office

### Ashland

201 W Main St  
Ashland, WI 54806  
Address to the Clerk of Courts Office

### Barron

420 State Hwy 25 N  
Barron, WI 54812  
Address to the Clerk of Courts Office

### Bayfield

117 E 5th St  
PO Box 536  
Washburn, WI 54891  
Address to the Clerk of Courts Office

### Brown

100 S Jefferson St PO Box 23600  
Green bay, WI 54305  
Address to the Brown County Clerk of Court and  
add the case number

### Buffalo

P.O. Box 68  
Alma, WI 54610  
If you are in the buffalo county jail contact a  
correctional officer to have the filing submitted  
to the county clerk. If you are in a different  
county mail to the Clerk of Courts at the  
address to the left.

### Burnett

7410 Co Rd K #115  
Siren, WI 54872  
Address to the Clerk of Courts Office

### Calumet

206 Court St  
Chilton, WI 53014  
Should be addressed to Calumet County Clerk  
of Court and all documents inside must have  
the correct case number on them

### Chippewa

711 North Bridge St  
Chippewa Falls , WI 54729  
Address to the Clerk of Courts Office

### Clark

517 Court ST  
Neillsville, WI 54456  
Address to the Clerk of Courts Office

### Columbia

P.O. Box 587  
Portage, WI 53901  
Address to the Clerk of Courts Office

### Crawford

220 N Beaumont Rd  
Prairie Du Chien, WI 53821  
Address to the Clerk of Courts Office

### Dane

215 S Hamilton St Room 1000  
Madison, WI 53703  
Address to the assigned judge

### Dodge

210 W Center St  
Juneau, WI 53039  
Address to the Clerk of Courts Office

### Door

1205 S Duluth Ave  
Sturgeon Bay, WI 54235  
Address to the assigned judge

### Douglas

1313 Belnap St Ste 309  
Superior, WI 54880  
Contact CO for delivery if in Douglas County  
Jail; if in outside county address to clerk of  
courts office

### Dunn

615 Stokke Pkwy, Ste 1500  
Menomonie, WI 54751  
Address to the Dunn County Clerk of Courts

### Eau Claire

721 Oxford Ave  
Eau Claire, WI 54703  
Address to the Clerk of Courts Office

### Florence

PO Box 410  
Florence, WI 54121  
Address to the Clerk of Court Office

### Fond du Lac

160 S Macy St  
Fond Du Lac, WI 54936  
Address to the assigned judge

### Forest

200 East Madison St  
Crandon, WI 54520  
Address to the Clerk of Court Office

### Grant

130 W Maple St , PO Box 110  
Lancaster, WI 53813  
Address to the Clerk of Court Office

### Green

2841 6th St  
Monroe, WI 53566  
Address to the Clerk of Court Office

### Green Lake

571 County Rd A  
Green Lake, WI 54941  
Address to the Clerk of Court Office

### Iowa

222 N Iowa St  
Dodgeville, WI 53533  
Address to the Clerk of Court Office

### Iron

300 Taconite St  
Hurley, WI 54534  
Address to the Clerk of Courts Office

### Jackson

307 Main St  
Black River Falls, WI 54615  
Address to the Clerk of Court Office

### Jefferson

311 S Center Ave Room C1080  
Jefferson, WI 53549  
Address to the Clerk of Court Office

### Juneau

200 Oak Street  
Mauston, WI 53948  
Address to the Clerk of Court Office

### Kenosha

912 56th St  
Kenosha, WI 53140  
Address to the Clerk of Courts Office

### Kewaunee

613 Dodge St  
Kewaunee, WI 54216  
Address to the Clerk of Court Office

### La Crosse

333 Vine St Room 1200  
La Crosse, WI 54601  
Address to the Clerk of Courts Office

### Lafayette

626 Main St  
Darlington, WI 53530  
Address to the Clerk of Courts Office

### Langlade

800 Clermont St  
Antigo, WI 54409  
Address to the Clerk of Courts Office

### Lincoln

1110 E Main St  
Merrill, WI 54452  
Address to the Clerk of Courts Office

### Manitowoc

1010 S 8th St. PO Box 2000  
Manitowoc, WI 54221  
Address to the Clerk of Courts Office

## County filing information

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### **Marathon**

500 Forest St  
Wausau, WI 54403  
Address to the Clerk of Courts Office

### **Marinette**

1926 Hall Ave  
Marinette, WI 54143  
Contact CO for delivery if in Marinette County Jail;  
if in outside county address to clerk of courts  
office

### **Marquette**

77 W Park St Rm 200  
Montello, WI 53949  
Address to the Clerk of Courts Office

### **Menominee**

W3269 Courthouse Ln. P.O. Box 279  
Keshena, WI 54135  
Address to the Clerk of Courts Office

### **Milwaukee**

901 N 9th St  
Milwaukee, WI 53233  
Address to your assigned judge

### **Monroe**

112 S Court St Rm 2300  
Sparta, WI 54656  
Address to your assigned judge

### **Oconto**

301 Washington St  
Oconto, WI 54153  
Address to the Clerk of Courts Office

### **Oneida**

P.O. Box 400  
Rhineland, WI 54501  
Address to the Clerk of Courts Office

### **Outagamie**

320 S Walnut St  
Appleton, WI 54911  
Address to the Clerk of Courts Office

### **Ozaukee**

1201 S Spring St. P.O. Box 994  
Port Washington, WI 53074  
Address to the Clerk of Courts Office

### **Pepin**

740 7th Ave W P.O. Box 39  
Durand, WI 54736  
Address to the Clerk of Courts Office

### **Pierce**

414 W Main St. PO BOX 129  
Ellsworth, WI 54011  
Address to the Clerk of Courts Office

### **Polk**

1001 West Main St. Suit 300  
Balsam Lake, WI 54810  
Address to the Clerk of Courts Office

### **Portage**

1516 Church St  
Stevens Point, WI 54481  
Address to the Clerk of Courts Office

### **Price**

126 Cherry St  
Phillips, WI 54555  
Address to the Clerk of Courts Office

### **Racine**

730 Wisconsin Ave  
Racine, WI 53403  
Address to Clerk of Circuit Court- 8th Floor

### **Richland**

181 W Seminary  
Richland Center, WI 53581  
Address to the Clerk of Courts Office

### **Rock**

51 S Main St  
Janesville, WI 53545  
Address to the Clerk of Courts Office

### **Rusk**

311 Miner Ave E Ste L350  
Ladysmith, WI 54848  
Address to the Clerk of Courts Office

### **St. Croix**

1101 Carmichael Rd  
Hudson, WI 54016  
Needs to include two copies and address  
to both the DAs office as well as the clerk  
of court office

### **Sauk**

515 Oak St. P.O. Box 449  
Baraboo, WI 53913  
Address to the Clerk of Courts Office

### **Sawyer**

10610 Main  
Hayward, WI 54843  
Address to the Clerk of Courts Office

### **Shawano**

311 N Main St  
Shawano, WI 54166  
Address to the Clerk of Courts Office

### **Sheboygan**

615 N 6th St  
Sheboygan, WI 53081  
Address to the Clerk of Courts Office

### **Taylor**

224 S 2nd St  
Medford, WI 54451  
Address to the Clerk of Courts Office

### **Trempealeau**

18600 Hobson St  
Whitehall, WI 54773  
Address to the Clerk of Courts Office

### **Vernon**

400 Courthouse Sq. P.O. Box 426  
Viroqua, WI 54665  
Address to the Clerk of Courts Office

### **Vilas**

330 Court St  
Eagle River, WI 54521  
Address to the Clerk of Courts Office

### **Walworth**

1800 County Rd NN, P.O. Box 1001  
Elkhorn, WI 53121  
Address to the Clerk of Courts Office

### **Washburn**

10 4th Ave. P.O. Box 339  
Shell Lake, WI 54871  
Address to the Clerk of Courts Office

### **Washington**

4484 Rolfs Avenue Room 3151  
West Bend, WI 53090  
Address to the Clerk of Courts Office

### **Waukesha**

515 W Moreland Blvd  
Waukesha, WI 53188  
Address to the Waukesha Circuit Court

### **Waupaca**

811 Harding St  
Waupaca, WI 54981  
Address to the Clerk of Courts Office

### **Waushara**

380 S Townline Road  
Wautoma, WI 54982  
Address to the Clerk of Courts Office

### **Winnebago**

415 Jackson St. P.O. Box 2808  
Oshkosh, WI 54903  
Address to the Clerk of Courts Office

### **Wood**

400 Market St. P.O. Box 8095  
Wisconsin Rapids, WI 54495  
Address to the Clerk of Courts Office

207 East Buffalo Street  
Unit 325  
Milwaukee, WI 53202  
[www.aclu-wi.org](http://www.aclu-wi.org)



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