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| **Motion to Dismiss – Right to Speedy Trial** | Ian Freeman63 Emerald St. #610 Keene, New Hampshire |

October 03, 2012

Court Name: Hillsborough District

Case Name: State v. Ian Freeman

Case Number: 444-2012-CR-00467

Now comes Ian Freeman of the Shire Society, called defendant by this court, by special appearance, not submitting to the court’s jurisdiction, who hereby motions the court to dismiss this matter for the following reasons:

**Right to Speedy Trial**

* According to the NH Supreme Court’s own rules: (<http://www.courts.state.nh.us/rules/sror/sror-x.htm>)
***Where the defendant is not incarcerated, every misdemeanor case pending without disposition after 6 months from date of entry and every felony case pending without disposition after 9 months from date of an indictment shall be scheduled forthwith for a show cause hearing as to whether, under the principles of Barker v. Wingo, 407 U.S. 514, 92 S.Ct. 2182. 33 L.Ed.2d 101 (1972), the case should be dismissed for lack of a speedy trial.***

There is a four-part test first enunciated in Barker v. Wingo for determining whether a defendant's speedy trial right under part I, article 14 of the State Constitution has been violated:
***(1) the length of the pretrial delay; (2) the reasons for the delay; (3) the defendant's assertion of his right to a speedy trial; and (4) the prejudice to the defendant caused by the delay.***

I will address these in order:

1. The incident in question allegedly occurred on November 5th, 2011. The court clerk's scheduled date for the trial is January 10th, 2013, over a year after the original complaint. The last communication I received from this court was dated May 22nd, 2012 - four full months before the notice of trial which is dated September 25th, 2012. The previous order from judge J. Patten states that the court will schedule a trial as soon as the court docket will allow. If eight months is considered as soon as the court docket will allow, this court is clearly overburdened with cases and should be dropping those that are not matters with a victim, like this one. Clearly the case is not being treated with any urgency, as it took the court clerk over four months just to set a trial date.

2. The people calling themselves the state will always have a reason for the delay, but if there is a right to speedy trial, and the constitution says there is, then the court should take their reasons as *de minimis.*3. I am clearly aware of the right to speedy trial which is enshrined in your society’s founding document, the NH Constitution, Bill of Rights, Article 14, which states:

***Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.***

4. I have been prejudiced in that I have been living with the uncertainty that permeates life when court proceedings are looming. It is a distraction that I do not relish dealing with as I would rather spend my time focusing on my business and helping the community.

**Conclusion:**

The court should dismiss this case immediately, in the interests of upholding the constitutional right to speedy trial.

Mailed this \_\_\_\_ day of **October 2012.**

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Certificate of service

This is to certify that a true and correct copy of the foregoing has been delivered this

\_\_\_ day of **October 2012** to the alleged plaintiff.

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