

FILED

STATE OF NORTH CAROLINA

2015 JUN -1 AM 9:09

COUNTY OF BUNCOMBE

BUNCOMBE CO., C.S.C.

THE STATE OF NORTH CAROLINA,)

BY _____)

Plaintiff,)

v.)

MICHAEL MAYO MACKE,)

Defendant.)

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

CASE NOS. 15 CRS 432-433

**DEFENDANT'S DEMAND
FOR SPEEDY TRIAL**

NOW COMES the Defendant, through the undersigned counsel, and respectfully demands a speedy trial of the charges brought against him in this matter. In support of said Demand, the Defendant shows unto the Court the following:

The Sixth Amendment guarantees that, in a criminal prosecution, the accused shall enjoy the right to a speedy and public trial. U.S. Const. amend. VI; *United States v. Grimmond*, 137 F.3d 823, 827 (4th Cir. 1998); *Doggett v. United States*, 505 U.S. 647 (1992); *United States v. MacDonald*, 456 U.S. 1, 6 (1982). The Sixth Amendment guarantee is "designed to minimize the possibility of lengthy incarceration prior to trial [. . .] and to shorten the disruption of life caused by arrest and the presence of unresolved criminal charges." *MacDonald*, 456 U.S. at 8.

The North Carolina Constitution, article I, section 18, also guarantees a defendant's right to a speedy trial. *See State v. Tindall*, 294 N.C. 689 (1978). "[T]he constitutional right to a speedy trial is designed to prohibit arbitrary and oppressive delays which might be caused by the fault of the prosecution." *State v. Johnson*, 3 N.C. App. 420 (1969). "[A] showing of a particularly lengthy delay establishes a prima facie case that the delay was due to the neglect or willfulness of the prosecution and requires the State offer evidence fully explaining the reasons for the delay, sufficient to rebut the prima facie showing." *State v. Chaplin*, 122 N.C. App. 659 (1996).

On May 11, 2015, four criminal charges were brought against the Defendant through two indictments issued by a Buncombe County Grand Jury. After the indictments were issued, property of the Defendant was seized and has been held since that time, it is believed, by the North Carolina Alcohol Law Enforcement agency.

On May 14, 2015, the State filed a Request for Special Assignment of Judge, and stated: "The State contends that similar seizures and charges involving video gaming machines belonging to some of the above-listed Defendants have been hotly contested, and have been the subject of many pretrial motions; because of the complexity of the present cases, the State anticipates that they will no[t] be concluded in one six-month term of Superior Court."

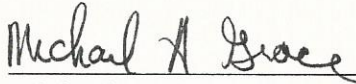
If the prosecution of this criminal matter is unnecessarily delayed, the Defendant will be deprived of his right to conduct a lawful business in the State of North Carolina and will be

prejudiced by damage to his reputation in the community. See *United States v. Marion*, 404 U.S. 307, 320 (1971) (formal accusation may “interfere with defendant’s liberty, . . . disrupt his employment, drain his financial resources, curtail his associations, . . . and create anxiety in him, his family and his friends”); *State v. Pippin*, 72 N.C. App. 387 (1985) (dismissal of charges upheld where negligent delay in prosecuting case caused drain on defendant’s resources and interference with social and community associations). Each day that the trial of this matter is delayed is a detriment to the Defendant.

WHEREFORE, the Defendant hereby asserts and demands his right to a speedy trial under the Sixth Amendment and under article I, section 18 of the North Carolina Constitution.

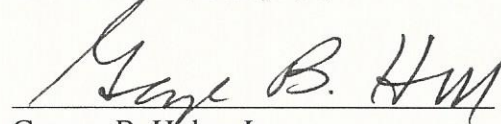
THIS the 1st day of June, 2015.

GRACE, TISDALE, CLIFTON, P.A.



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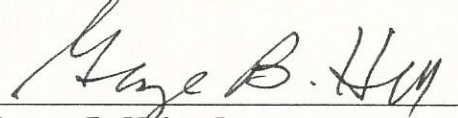
CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that the undersigned has on this date served a copy of the foregoing **DEFENDANT'S DEMAND FOR SPEEDY TRIAL** on counsel for the State of North Carolina by hand delivery to:

Alex Bass
Assistant District Attorney
28th Prosecutorial District
P.O. Box 7158
Asheville, NC 28802
(828) 259-3411 - fax

THIS the 1st day of June, 2015.

HYLER & LOPEZ, P.A.


George B. Hyler, Jr.