

FOR PUBLICATION

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

FILED

May 6, 1996

**Cecil W. Crowson
Appellate Court Clerk**

STATE OF TENNESSEE, (

Plaintiff-Appellee, (

v. (

TERRY WOOD, (

Defendant-Appellant. (

Williamson Circuit

Hon. Donald P. Harris, Judge

No. 01S01-9501-CC-00015

DISSENTING OPINION

I concur in the dissent of Justice White.

In addition, I would find that the circumstances next preceding the trial would be determinative. The majority finds that the defendant's acquiescence in the delay tipped the scales in favor of the State. However, in March 1990, 35 months before the trial was commenced, the defendant made inquiry to the court regarding any charges pending against him. Despite the failure of the clerk to respond to the inquiry, the defendant filed a motion for speedy trial in September 1990. Consequently, the delay from 1990 until 1993 was caused solely by the State. I would hold this delay of

almost three years to be a violation of the right to a speedy trial, notwithstanding all other circumstances.

Reid, J.