

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2011

JEFFREY W. MUMANI,

Petitioner

v.

CASE NO. 5D11-560

STATE OF FLORIDA,

Respondent.

_____ /

Opinion filed June 22, 2011

Petition for Writ of Prohibition,
J. David Walsh, Respondent Judge.

Jeffrey W. Mumani, Santa Rosa, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee and Anthony J. Golden,
Assistant Attorney General, Daytona
Beach, for Respondent.

PER CURIAM.

Jeffrey Mumani petitions this Court for a writ of prohibition, alleging a violation of his right to a speedy trial pursuant to Florida Rule of Criminal Procedure 3.191(b)(4). We agree that the facts of this case mandate discharging Mumani of the criminal charge in Volusia County Circuit Court Case No. 2009-32213 CFAES.

Mumani was charged in the underlying criminal case with dealing in stolen property. While serving a six-year term of imprisonment stemming out of an unrelated case in Marion County, Mumani filed his demand for speedy trial on July 15, 2010, in

the instant matter. Thereafter, on January 11, 2011, he filed his Notice of Expiration of Speedy trial. The court subsequently entered an order, determining that Mumani was not entitled to invoke speedy trial because he had not yet been arrested for the offense. The trial court misapplied this Court's case, State v. Hurley, 760 So. 2d 1127 (Fla. 5th DCA 2000), to support its determination.

At issue in Hurley was rule 3.191(a) (Speedy Trial without Demand), which provides that the time periods under the speedy trial rule commence upon the person being "arrested" if the crime charged is a felony. That rule is inapplicable here because Mumani filed a "Demand for Speedy Trial" pursuant to rule 3.191(b) (Speedy Trial upon Demand). Under subsection (b), the action that starts the time limit to bring the matter to trial is the filing of a written demand, rather than the arrest. See Thomas v. State, 46 So. 3d 116, 117 (Fla. 1st DCA 2010); Brown v. State, 798 So. 2d 773, 774 (Fla. 2d DCA 2001).

Accordingly, we grant the petition and direct that the circuit court enter an order discharging Mumani from the pending charge[s] in Volusia County case number 2009-32213 CFAES.

PETITION GRANTED.

ORFINGER, COHEN and JACOBUS, JJ. CONCUR.