

SPEEDY TRIAL MOTION TO DISMISS

725 Ill. Comp. Stat. Ann. 5/114-1

Motion to dismiss charge.

(a) Upon the written motion of the defendant made prior to trial before or after a plea has been entered the court may dismiss the indictment, information or complaint upon any of the following grounds:

(1) The defendant has not been placed on trial in compliance with Section 103-5 of this Code.

We conclude that the holding of the appellate court that the speedy trial issue need not be brought to the trial court's attention before trial but may be raised for the first time in a post-trial motion is in error. Such a holding is contrary to the express language of section 114-1 of the Code of Criminal Procedure quoted above, which requires that the motion for discharge be made prior to trial.

People v. Pearson, 88 Ill. 2d 210, 219, 430 N.E.2d 990, 994 (1981)

Consistent with the long-held application of waiver in our case law, section 114-1 of the Code expressly states that a violation of section 103-5 is waived unless a motion for discharge is made prior to trial. As the appellate court noted, the legislature would not have provided for waiver of the speedy trial statute if a violation of that statute alone resulted in an unfair trial or challenged the integrity of the judicial process.

People v. Marcum, 2024 IL 128687, ¶ 41, 240 N.E.3d 507, 517

Under section 114–1(a), the general rule is that a defendant may file a motion to dismiss on speedy trial grounds at any time prior to trial. The general rule, however, is limited by section 114–1(b) of the Code, which provides: “The court shall require any motion to dismiss to be filed within a reasonable time after the defendant has been arraigned. Any motion not filed within such time or an extension thereof shall not be considered by the court and the grounds therefor * * * are waived.” Ill.Rev.Stat.1985, ch. 38, par. 114–1(b).

People v. Moats, 165 Ill. App. 3d 413, 415–16, 519 N.E.2d 52, 53–54 (1988)