

Thursday, November 12, 2009

When does the speedy trial clock start running anew?

When does the speedy trial clock start running anew? Under Maryland law, a recharge after a nolle prosequi generally re-starts the 180-day Maryland speedy trial clock, unless the prosecutor has acted in bad faith. For instance, if a Maryland prosecutor enters a nolle prosequi after a judge denies a motion to amend the date on a charging document -- within the 180-day state speedy trial period -- and then recharges the alleged crime, Maryland's 180-day clock restarts after the charges are refiled: "The severe sanction of a Hicks [180-day rule] dismissal is reserved for situations where the State seeks to circumvent the strictures of § 6-103(a) and Rule 4-271(a)(1) and unjustifiably delay a defendant's trial beyond 180-days. This is not such a case on the record as it exists presently." *Maryland v. Huntley*, ___ Md. _ (Nov. 12, 2009). On the other hand, *Huntley* is not as harmful to criminal defendants' rights as one might first think. In its final footnote, *Huntley* says: "15 We express no opinion as to whether the nol pros and subsequent re-indictment of *Huntley* violated his constitutional speedy trial rights. That issue was not presented to us in this case. Section 6-103(a) and Rule 4-271(a)(1) were not intended to codify the constitutional right to a speedy trial. Instead, that statute and rule merely act as a prophylactic remedy for unjustifiable trial delay by the trial court or the State." *Huntley* (emphasis added).

Posted by Jon Katz in Criminal Defense at 18:00