

ALBERT T. SCOTT *v.* STATE OF ARKANSAS

CR 73-7

493 S.W. 2d 143

Opinion delivered April 23, 1973

CRIMINAL LAW—RIGHT TO A SPEEDY TRIAL—STATUTORY REQUIREMENTS.

—When the record conclusively demonstrates that after accused's arrest he was brought to trial before the end of the second term commencing after his arrest, he does not bring himself within the speedy trial provisions of Ark. Stat. Ann. § 43-1708 (Repl. 1964).

Appeal from Pulaski Circuit Court, *William J. Kirby*, Judge, affirmed.

William C. McArthur, for appellant.

Jim Guy Tucker, Atty. Gen., by: *Gene O'Daniel*, Asst. Atty. Gen., for appellee.

CONLEY BYRD, Justice. Appellant Albert T. Scott seeks to set aside his guilty plea to a robbery charge on the ground that the charge should have been dismissed for failure to prosecute within the speedy trial provisions of Ark. Stat. Ann. § 43-1708 (Repl. 1964), to wit:

"If any person indicted for any offense, and committed to prison, shall not be brought to trial before the end of the second term of the court having jurisdiction of the offense, which shall be held after the finding of such indictment, he shall be discharged so far as relates to the offense for which he was committed, unless the delay shall happen on the application of the prisoner."

The record shows that a robbery occurred on October 14, 1967, in which appellant and two other persons were involved. Charges were filed on November 22, 1967, while appellant was a fugitive. He was not arrested until September 24, 1970. The September term of court commenced on September 28, 1970, and did not end until the March term began on March 1, 1971. During the March term appellant entered a plea of guilty on July 7, 1971.

The record conclusively shows that appellant after his arrest was brought to trial before the end of the second term commencing after his arrest. Thus he does not bring himself within the terms of the statute. See *Stewart v. State*, 13 Ark. 720 (1850).

Affirmed.
