IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

**MOTION FOR DISMISSAL DUE TO**

**UNNECESSARY PRE-INDICTMENT DELAY**

On this day comes Defendant, [*name*], by and through Counsel, [*name* ], and, pursuant to Rule 48(b) of the West Virginia Rules of Criminal Procedure, hereby moves that this Honorable Court dismiss the [*indictment, information or complaint*] pending herein.

In support of this Motion, Defendant asserts the following: [*list facts supporting motion, including date of initial charge, date and result of preliminary hearing, and current procedural status of case*]. Defendant asserts that the delay by the State of West Virginia has acted and is acting to the prejudice of Defendant, and is depriving Defendant of his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution and Article III, § 10 of the West Virginia Constitution.

Therefore, Defendant requests that the Honorable Court grant this motion and dismiss the matter herein.

Dated this \_\_\_ day of [*month, year*].

[*defendant*],

By Counsel

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

[*counsel name*] [*bar number*]

[*address*]

[*phone number*]

[*email address*]

Counsel for Defendant