

## WRITTEN MOTION TO DISMISS FOR LACK OF SPEEDY TRIAL

Use the attached form motion if have been denied a right to a speedy trial.

The Indian Civil Rights Act (Federal Law) prohibits the Tribe from denying any person in a criminal proceeding a speedy and public trial. The Tribe's Constitution prohibits the Tribe from denying any person a speedy and public trial that shall be initiated no more than six months from the filing of criminal charges.

This means you must be given a trial within six months from the date of the filing of charges against. However, any delays of having a trial on your charges are caused by you, such as you being granted a continuance of the trial, you fail to appear at any scheduled court hearings or you flee the Tribe's jurisdiction, will toll the speedy trial requirement. For example, the Tribe files charges against someone on January 1 and a trial is scheduled for April 1 which is 4 months from the date the charges are filed. You ask for a continuance of the trial and the court grants your motion and reschedules the trial for July 1 which is 7 months from the date the charges are filed (more than six months from the filing of charges). This would not violate the speedy trial requirement because the trial was scheduled within 4 months of the charges being filed and the 3 month delay is attributed to you because you asked for a continuance. Now, either the Court continues the July 1 trial or the Tribe asks for a continuance of the July 1 trial and the court grants the Tribe's motion and reschedules the trial for October 1 which is 10 months from the date the charges are filed (more than six months from the filing of charges) but the 3 month delay caused by you make it 7 months from the date of filing charges to the time of your trial on October 1. This would violate your right to a speedy trial under the Tribal Constitution.

**INSTRUCTIONS FOR FILLING OUT THE FORM.** To fill out the attached form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

Instructions for filling out the motion:

- (1) on this line insert your name. If you are charged with a crime(s) you are the defendant.
  - (2) on this line insert the date you were arrested on the charges you are facing.
  - (3) on this line itemize the charges you are currently facing.
  - (4) on this line insert the date the Tribe filed charges against you. You can get it from a copy of the Complaint that charges you.
  - (5) on this line insert the date you sign the motion
  - (6) on this line sign the motion
- Note: Your motion must be signed and dated before the Clerk can accept it for filing and service
- (7) on this line date the day you mailed a copy of the motion to the RST Prosecutor's office. You are required to serve a copy of the motion on the RST Prosecutor's office.
  - (8) on this line sign your name to certify you mailed a copy of the motion on date you inserted on line (7).

**NOTE:** You must file your motion with the RST Clerk of the Criminal Court and mail a copy to Tribe's Prosecutor's office.

ROSEBUD SIOUX TRIBAL COURT)  
ROSEBUD SIOUX RESERVATION ) SS  
ROSEBUD, SOUTH DAKOTA )

IN CRIMINAL COURT

Rosebud Sioux Tribe, Plaintiff,  v.  (1) _____, Defendant.	DOCKET #CR _____  MOTION TO DISMISS FOR LACK OF SPEEDY TRIAL
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Comes now, the above-named Defendant who moves this honorable Court for its order to dismiss this case with prejudice for lack of speedy for the following reasons:

1. That on (2) \_\_\_\_\_ I was arrested on the charges of (3) \_\_\_\_\_.
2. The Complaint was dated and filed with the Court on (4) \_\_\_\_\_.
3. That more than 6 months has elapsed from the date the charges against me were filed to the date of the scheduled trial on the charges.
4. Any delay in the trial on this matter attributed to me would still violate my speedy trial right as there is at least a 6 month delay attributed to a delay caused by the Court or the Tribe.
5. 25 USC Section 1302 (a)(6) the Indian Civil Rights Act (Federal Law) prohibits the Tribe from denying any person in a criminal proceeding a speedy and public trial.
6. Article X Section 1(f) of the RST Constitution prohibits the Tribe from denying any person a speedy and public trial that shall be initiated no more than six months from the filing of criminal charges.
11. The my right to a speedy trial guaranteed by both the Indian Civil Rights Act and the RST Constitution have been violated and the charges against me should be dismissed with prejudice.

WHEREFORE, the Defendant prays this Court for its Order to dismiss this case with prejudice for violating the defendant's right to a speedy trial.

(5) \_\_\_\_\_

(6) \_\_\_\_\_  
Defendant

CERTIFICATE OF SERVICE

The defendant hereby certifies that on (7) \_\_\_\_\_ I did serve a true and correct copy of the Document in the above matter by mail on the Rosebud Sioux Tribal Prosecutor's Office at P.O. Box 500, Rosebud, SD 57570.

(8) \_\_\_\_\_  
Defendant