

No. 27907 - State of West Virginia v. Keith Somerlot

FILED

Starcher, J., concurring:

January 5, 2001
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

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I concur with the result in the majority opinion, because any delay in delivering the petitioner's request for final disposition of the charges against him was accidental, and because any prejudice to the petitioner was minimal.

However, in a case where a substantial delay was deliberate or where the effect of any delay was substantially prejudicial, the "strict compliance" rule cannot be solely determinative of a defendant's rights. The state may not break its own rules and procedures and thereby gain an unfair advantage against a criminal defendant.