

IN THE CIRCUIT COURT OF LEE COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

CAUSE NO. **CR 21-927(PF)L**

NETTIE DAVIS

DEFENDANT

ORDER

Before the Court is the State of Mississippi's Motion for Non-Jury Trial Setting, which has been fully briefed and is ripe for review.

Davis was *indicted* for alleged participation in an election lottery, a misdemeanor pursuant to Miss. Code Ann. § 23-15-561. Because the maximum penalty under the statute does not exceed six months, the State moved for a bench trial. However, the Mississippi Constitution unequivocally provides that "the accused shall have a right to . . . in all prosecutions *by indictment or information*, a speedy and public trial by an impartial jury . . ." MISS. CONST. ART. 3, § 26 (emphasis added). *See also Bryant v. Brown*, 118 So. 184, 195 (Miss. 1928) ("[I]f the court proceeds to try the child in the circuit court *under indictment for either misdemeanor or felony*, the child has all the rights accorded to any other person violating the law, including jury trial and other incidents of criminal law.") (emphasis added). Davis is therefore entitled to a jury trial.

IT IS THEREFORE ORDERED that the State of Mississippi's Motion for Non-Jury Trial Setting is **DENIED**.

SO ORDERED, this the 19th day of July, 2022.



PAUL S. FUNDERBURK
CIRCUIT JUDGE

FILED

JUL 20 2022

CAMILLE ROBERTS DULANEY
LEE CO. CIRCUIT CLERK

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