1 (Mr. Embrey conferring with the
2 defendant.)
3
4 MR. EMBREY: Judge, my client, for the
5 purposes of continuing it from November 10th, will
6 waive his right to speedy trial.
7 THE COURT: All right.
8 What I'm going to do is continue it to
9 November 3rd to be reset. Do y'all have your
10 calenders, your officers' dates, and such?
11 MR. FELMLEE: Judge, we have fifteen to
12 twenty witnesses we intend to call at trial. So we're
13 going to need to contact those people and find out
14 their dates and hopefully preset it with Mr. Embrey's
15 office.
16 THE COURT: All right.
17 I'll continue it to November 3rd to be
18 reset for another day.
19 MR. EMBREY: Judge, if I could --
20 THE COURT: The defendant waives speedy
21 trial.
22 MR. EMBREY: Yes, sir.
23 Judge, if I could just on the record --
24 I know it's kind of a difficult point the Court had to
25 consider because the statutes aren't clear. I would

1 just for the record so I don't have to do this at trial
2 respectfully state my objection to the Court's ruling
3 on that. I have two brief points. One, if there's any
4 ambiguity in the statute it gets resolved in favor of
5 the defendant. I acknowledge he falls within the ambit
6 of that second part of the middle paragraph of 271. I
7 don't contest that. But being treated as an adult and
8 an adult sentence -- sentencing as an adult -- I think
9 he can receive an adult sentence, not necessarily that
10 the jury has to impose it. And I would argue that
11 16.1-272 is the more specific statute which
12 specifically says in any case in which a juvenile is
13 indicted and found guilty in this court the court shall
14 fix the sentence without intervention of the jury. I
15 would argue that's more specific and respectfully make
16 that objection on the record.
17 THE COURT: All right. We'll note your
18 exception to the Court's ruling.
19 MR. EMBREY: Yes, sir.
20 THE COURT: And you can preserve that
21 issue in the event you wish to appeal it --
22 MR. EMBREY: Yes, sir.
23 THE COURT: -- after the case has been
24 resolved one way or the other.
25 MR. EMBREY: Yes, sir.