

U.S.S.Ct. case no. 18-5719
Az. C.D.A. case no. 1 CA-SA 17-0257

IN THE SUPREME COURT OF THE UNITED STATES

ALAN MICHAEL BARTLETT
Defendant - Petitioner

vs,

SUSANNA C. PINEDA
Plaintiff - Respondent

DEFENDANT'S PETITION FOR REHEARING
AND/OR REHEARING EN BANC

PETITION FOR REHEARING OF UNITED
STATES SUPREME COURT DECISION DENYING
DEFENDANT'S WRIT OF CERTIORARI

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Rule 8.6 - Dismissal for Speedy
Trial Violation

DEFENDANT'S PETITION FOR
REHEARING, AND/OR REHEARING
EN BANC

Defendant Bartlett petitions for rehearing, and/or rehearing en banc, under U.S. S. Ct. Rule 44, in light of landmark decisions:

1. *Doggett v. U.S.*, 506 US 647 (1992), where the U.S. S. Ct. held that delay of 8½ years between defendant's indictment and arrest violated his 6th USCA right to speedy trial under 18 USCA 3161.
2. *Hijar v. Burris*, 474 US 1016 (1985), where the U.S. S. Ct. held that under 18 USCA APP 2, SECTION 2, Interstate Agreement on Detainers (IAD), after a defendant requests final disposition on an untried
(1)

indictment, the receiving state shall take custody of the defendant within 90 days and take him to trial within 90 days (180 days total) after taking custody of him, or dismiss the indictment for speedy trial violations under IAD.

I. INTRODUCTION

On October 29, 2018, this Court issued a memorandum affirming Respondent Susanna C. Pineda's order denying Defendant Bartlett's motion to dismiss for lack of speedy trial.

Accordingly, Bartlett applies to this Court for rehearing, and/or rehearing en banc, petitioning this panel to reconsider that decision for the following reasons;

a. no opposing brief was filed

b. the Court failed to create adequate record to support the decision denying the writ of certiorari

c. the trial court erred denying his motion to dismiss for lack of speedy trial for the following reasons;

1. Bartlett was indicted by Arizona in August 2018 while in federal custody. In January 2016, Arizona took custody of him and transported him from Seattle, WA to Arizona. It is currently November 2018 and Bartlett is still awaiting trial. (5 years later)

(3)

2. Bartlett served Arizona request for final disposition under IAD, 18 USCA APP 2, SECTION 2, from Federal prison in 2014. Arizona took custody of Bartlett and transported him to Arizona January 19, 2016, (2 years later) in violation of IAD, and clearly Arizona had 180 days total to take him to trial or dismiss any indictment against him.

II. STATEMENT OF THE CASE

A. This is a fraud prosecution where Bartlett is accused of diverting corporate proceeds from a company he owns into personal accounts. The indictment contains the following charges;

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- Count 1, Fraudulent Schemes and Artifacts (ARS 13-2310)
- Count 2-20, Forgery (ARS 13-2002)
- Count 21-32, Taking Identity of Another (ARS 13-2008)

B. In 2008 while attending Arizona State University, Bartlett operated United States Disabled Veterans, LLC, a nationally recognized company, and United States Handicapped / Disadvantaged Services, LLC, doing national business, registered and listed at the Arizona Corporation Commission, Arizona Department of Revenue, and United States Treasury. Those call-center companies were organized as "for-profit" business, to employ the disadvantaged and disabled. However, over time the business' experienced complex "charge back" frauds that Bartlett was unable to circumvent, and later dissolved. After reporting those sophisticated bank teller frauds to authorities, proceeds from business activities were turned over to Maricopa County on advice of Maricopa Sheriff, Lt. Chad Brackman, in exchange

for twenty-five year old restitution and fines.

Bartlett argues that he had implied authority to allocate these resources to third-party handling, and MCSO has no apparent authority to arrest and/or charge anybody for these decisions. Bartlett contends that he broke no law and committed no crime doing this because the State of Arizona has no jurisdiction to charge and indict him when no crime committed. Bartlett was subsequently indicted by grand jury three years later.

III. LAW

Standard of Review

The United States Supreme Court's decision to deny a defendant's motion on finding of fact is reviewed for clear error. *UK v. Pineda-Dovel*, 692 F.3d 942 (2012). A finding of fact is clearly erroneous if it is;

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- (1) illogical, (2) implausible, or
- (3) without support in inferences that may be drawn from the facts of record,

The United States Supreme Court's determination to grant a Defendant's motion for rehearing is reviewed under Rule 35, Fed. R. App. P. When:

a. a panel decision conflicts with a decision of the United States Supreme Court or the Court to which the petition is addressed and consideration by the Full Court is necessary to secure and maintain uniformity of the Court's decisions;

b. the proceeding involves one or more questions of exceptional importance, each of which may be concisely stated; for example, a petition may assert that a proceeding presents a question of exceptional importance if it

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involves an issue on which the panel decision conflicts with the authoritative decisions of other United States Courts that have addressed this issue

IV. DISCUSSION

Bartlett argues that the United States Supreme Court's, October 29, 2018 decision to deny his petition for writ of certiorari deprives him of liberty interests prescribed under the 6th USCA and 14th USCA amendments of the United States Constitution, he contends that under Rule 35(b)(A), Fed. R. App. P., a panel decision conflicts with a decision of the U.S. Supreme Court, or the Court to which the petition was addressed and consideration is necessary to secure and maintain uniformity of the Court's decisions, Bartlett concludes that the U.S. Supreme Court;

- (1) failed to create an adequate record to support the denial of his petition for writ of certiorari, (2) failed to address and

(8)

consider the trial court's decision to secure and maintain uniformity of the Court's precedents, and (3) provided inadequate reasons for denying his petition for writ of certiorari.

In this case, the Supreme Court conducted no inquiry into Bartlett's petition, nor make any consideration to secure and maintain uniformity of the Court's precedents, (stare decisis). The denial of Bartlett's petition deprives him of his liberty interests and violates his 6th USCA and 14th USCA amendment rights under the U.S. Constitution.

2. SPEEDY TRIAL VIOLATION

In light of our most current precedent, *Doggett v. U.S.*, 505 US 647 (1992), Bartlett argues that the State's delay in trying him violates the 6th USCA right to a speedy trial, (18USCA 3161, and Rule 8.3(a), Arizona Rules of Criminal Procedure),

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which provides time limits in which criminal defendants must be tried. Rule 8.2(b), Az. R. Cr. P., requires that a defendant released from custody be tried within 150 days of his arrest or service of the summons. The computation of those time limits may be extended, however, by the provisions of Rule 8.4(a), Az. R. Cr. P., which excludes delays occasioned by or on behalf of the defendant, including, but not limited to, delays caused by... the defendant's absence or incompetence, or his inability to be taken into custody in Arizona. A defendant's "inability to be arrested" does not depend upon a showing that the defendant has willfully avoided prosecution, but is construed also to include circumstances in which the prosecution has been unable to serve a defendant despite due diligence in efforts to locate him. In *Doggett*, the Court recognized that four separate inquiries are required in determining when constitutionally, a speedy trial violation occurs.

Bartlett argues that the time between
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indictment and trial is "presumptively prejudicial," Arizona alleges Bartlett committed those crimes between 2009 and 2010, but indicted him in August 2013. It was not until January 19, 2016 that the state took custody of him in Seattle, Washington and transported him to Arizona, to date, as of November 5, 2018, through no fault of his own, he is still awaiting trial.

6. INTERSTATE AGREEMENT ON DETAINERS

In light of our most current precedent, *Hijar v. Burris*, 474 US 1016 (1985), Bartlett argues that under Interstate Agreement on Detainers, 18 USCA APP 2, SECTION 2, and Rule 8.3 (a), Az. R. Cr. P., he is entitled to full dismissal, he contends that in 2014 a request for final disposition was lodged in Arizona triggering IAD and speedy trial provisions (90 days to take custody and 90 days to try a defendant - 180 days total), and that those provisions were violated before

Arizona took custody of him on January 19, 2016, Further, he is still awaiting trial as of November 5, 2018, Bartlett concludes that the Supreme Court's decision denying his petition for writ of certiorari is implausible and conflicts, stare decisis, with the binding precedent of the Supreme Court to which the petition is addressed.

V. CONCLUSION

Bartlett argues that under *Doggett v. U.S.*, 505 US 647 (1992), and *Hijar v. Burris*, 474 US 1016 (1985), he is entitled to full dismissal of charges, he contends that under Rule 35, Fed. R. App. P., the U.S. Supreme Court should grant his petition for rehearing, and/or rehearing en banc to secure and maintain uniformity of the Court's precedents. Bartlett concludes that by no means is he responsible for any delay in prosecution, he contends that the state

has intentionally delayed this prosecution to gain an unfair tactical advantage.

VI. RELIEF SOUGHT

Accordingly, Bartlett requests this Court grant his petition for rehearing;

1. Vacate Respondent Judge Susan C. Pineda's order denying his motion to dismiss for lack of speedy trial in light of *Dogett v. U.S.*, 505 US 647 (1992), and *Hijar v. Burris*, 474 US 1016 (1985)
2. Remand to the Arizona Court of Appeals with instructions consistent with this petition to secure and maintain uniformity of the United States Supreme Court precedents.

DATED this 5th day of November, 2018,

Alan M. Bartlett
(13) Defendant / Petitioner - Pro Se

**Additional material
from this filing is
available in the
Clerk's Office.**