

U.S. Sup. Ct. case no. 18-5720  
Az. C.D.A. case no. 1 CA-SA 17-0235

IN THE SUPREME COURT OF THE UNITED STATES

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ALAN MICHAEL BARTLETT

Defendant - Petitioner

vs.

SUSANNA E. PINEDA

Plaintiff - Respondent

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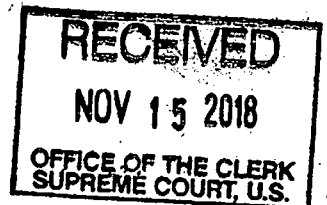
DEFENDANT'S PETITION FOR REHEARING,  
AND/OR REHEARING EN BANC

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

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Defendant/Petitioner - Pro Se



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

Defendant Barthett petitions for rehearing, and/or rehearing en banc, under U.S. Sup. Ct. Rule 44, in light of binding precedent, Bloate v. US, 559 US 196 (2010), abrogating Zedner v. US, 547 US 489 (2006).

1. Bloate v. US, 559 US 196 (2010), the Court held that time granted to a party to prepare motions is not automatically "excludable" from the Speedy Trial Act calculation.
2. Zedner v. US, 547 US 489 (2006), the Court held that a defendant may not prospectively waive the application of the Speedy Trial Act, and that after several months of hospitalization for incompetency,  
(1)

the delay resulting from the absence or unavailability of the defendant, where he is mentally incompetent or physically unable to stand trial is not excludable.

## I. INTRODUCTION

On October 29, 2018, this Court issued a memorandum affirming the trial court's decision to exclude time period[s]; (1) from April 2016 to February 2017, and (2) from October 2017 to current, under Rule 8.4 (2), Arizona Rules of Criminal Procedure and 18 USCA 3161 (h)(3)(A), where defendant was involuntarily committed to competency proceedings on the state's motion, after being found competent to self-represent under *Faretta v. CA*, 422 US 826 (1975).

Accordingly, *Bartlett* applies to this  
(2)

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 an adequate record to support the decision denying the writ of certiorari
- c. the trial court erred excluding delay, not caused by the defendant, when the state involuntarily committed him over objection, after being declared competent to self-represent at the higher standard to waive counsel, under *Faretta v. CA*, 422 US 806 (1975), rather than the standard to stand trial under *Bodine v. Moran*, 509 US 389 (1993)

(3)

## 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;

- Count 1, Fraudulent Schemes and Artifacts (ARS 13-2310)
- Count 2-20, Forgery (ARS 13-2002)
- Count 21-22, 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 County 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 those 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 in August 2013.

### 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. *Ud v. Pineda-Dovel*, 692 F.3d 942 (2012).

A finding of fact is clearly erroneous if it is; (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;

2. a panel decision conflicts with a decision of the U.S. Supreme Court or the Court to which the petition is addressed and consideration by the full court
- (6)

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 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 6<sup>th</sup> USCA and 14<sup>th</sup> 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 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 liberty interests and violates his

6<sup>th</sup> USCA and 14<sup>th</sup> USCA amendment rights under the U.S. Constitution.

## 2. NOT EXCLUDABLE TIME

In light of *Bloate v. US*, 559 US 196 (2010), abrogating *Zedner v. US*, 547 US 489 (2006), Bartlett argues that the time periods amounting to over 24 months, in violation of the Speedy Trial Act under 18 USCA 3161, and Rule 8.2, Az. R. Cr. P., and *Doggett v. US*, 505 US 647 (1992), is not excludable time from the speedy trial calculation under 18 USCA 3161(h)(3)(A), and Rule 8.4(a), Az. R. Cr. P.

Bartlett was indicted by Arizona in August 2013 for crimes the state alleged were committed between 2009 and 2010. On January 19, 2014 the state arrested and took custody of him in Seattle, Washington where he is serving federal time related to the same business

activities. The controversy began after Bartlett waived counsel under *Foretha v. CA*, 422 US 806 (1975), where he was declared competent to self-represent. In April 2016, on the state's motion under Rule 11.2, Az. R. Cr. P., over defense objection, and after declaring Bartlett competent to self-represent, the Court ordered involuntary competency proceedings to examine his mental fitness. Bartlett challenges (1) the Court's commitment under *Bodine v. Moran*, 509 US 389 (1993), where the U.S. Supreme Court held that the standard to plead guilty or waive counsel is the same as the standard of competency to stand trial, and (2) the trial court's decision to exclude time where he is involuntarily committed to competency, he contends the delay is through no fault of his own under 18 USC § 3161(h)(3)(A), and Rule 8.4(a), Az. R. Cr. P., because under *Bodine v. Moran*, 509 US 389 (1993), if the standard

of competency is the same, then one would presume the state's intentional delay, involuntarily committing him to competency proceedings would not only violate his speedy trial rights under the 6<sup>th</sup> USCA, but due process rights under the 14<sup>th</sup> USCA, allowing the state an "unfair tactical advantage" over the defendant.

Bartlett argues the time periods below are not-excludable under *Blatte* and *Zedner*;

1. April 2016 until February 2017  
(10 months of involuntary competency proceedings, delay caused by the state)

2. October 2017 until current  
(13 months of involuntary competency proceedings, delay caused by the state)

(11)

Total Delay 23 months

Bortlett is still as of November 7, 2018 awaiting disposition of this criminal matter in violation of the speedy trial act, he 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.

#### IV. CONCLUSION

Bortlett argues that under *Bloate v. US*, 559 US 196 (2010), and *Zedner v. US*, 547 US 489 (2006), the time the trial court excluded is "not-excludable" time under the speedy trial computation when the delay is by no means, any fault of his own, 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. Bartlett concludes that he is not 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 any trial court order excluding time from the speedy trial computation where Bartlett was involuntarily committed on state's motion over objection, and after waiving counsel at the higher standard. The time periods;

- a. From April 2016 until February 2017
- b. From October 2017 until Current (as of November 7, 2018)

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's precedents

2. Vacate the trial court's order excluding time

- From April 2016 until February 2017 (10 months)
- From October 2017 until November 2018 (13 months)
- Dismiss indictment for speedy trial violations

DATED this 7<sup>th</sup> day of November, 2018,

Alan M. Bartlett  
Defendant/Petitioner Prose

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