

20-8359
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

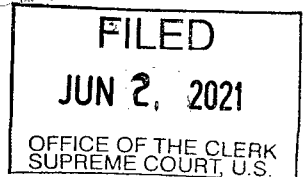
JAMES CHRISTOPHER CASTLE — PETITIONER
(Your Name)

vs.

EASTERN DISTRICT OF CALIFORNIA - SM — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

ORIGINAL



9th CIRCUIT OF THE UNITED STATES
(NAME OF COURT THAT LAST RULED ON ~~MERITS~~ OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JAMES CHRISTOPHER CASTLE
(Your Name)

916 CSI I Street, 6W115
(Address)

Sacramento, CA 95814
(City, State, Zip Code)

N/A
(Phone Number)

Questions for consideration

1. Relief is sought from void ab initio emergency judicial order which was issued predicated upon an application by Eastern District of California Chief Judge Kimberly Mueller which breeched the timelines mandated in 18 U.S.C. §3174(e), a plain error of law.
2. Relief from blanket abuse of 'ends of justice' clause which has resulted in the tolling of defendants speedy trial clock in breech of 6th Amendment Constitutional and Speedy Trial Act statutory rights, also a plain error of law.
3. Resolve conflicting views both within and among District Courts concerning the claim of the COVID-19 pandemic being valid as a reason to suspend jury trial courts.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

United States v Shiekh, 2118-cr-00119-WBS (E.D. CA 2020)

United States v Henning, SAUR 16-00029-CJC-7 (C.D. CA 2021)

Castle/Thomas v Eastern District of CA - See, 21-70683, (9th Cir 2021)

TABLE OF CONTENTS

	page
Opinions Below	1
Jurisdiction	2
Constitutional and Statutory Provisions Involved	3
Table of Authorities Cited	4
Statement of the Case	5
Reasons for Granting the Petition	9
Conclusion	22
Appendix	23

Index to Appendices

Appendix A - Decision of U.S. Court of Appeals for the Ninth Circuit

Appendix B - 18 U.S.C. §3174

Appendix C - 18 U.S.C. §3161

Appendix D - Sixth Amendment, Constitution of the United States

Appendix E - United States v. Henning, SACR 16-00029-CJC-7 (C.D. CA 4/19/21)

Appendix F - United States v. Sheikh, 2:18-cr-00119-WBS, DOC 145
(E.D. CA, decided 10/01/20)

Appendix G - In re Approval of the Judicial Emergency Declared in
the Eastern District of California, 956 F.3d 1175 (4/16/20)

Appendix H - Chief Judge Kimberly J. Mueller request for Suspension of
Speedy Trial Act Deadlines Given Judicial Emergency Due to
Coronavirus Disease (COVID-19) Pandemic. (18 U.S.C. §3174) (4/8/20)

Appendix I - Eastern District of CA General Orders 611, 617, 618

Appendix J - Castle/Thomas v Eastern District of CA - Sac,
21-70683 (4/23/21 decision), Writ of Mandamus (9th Cir.)

Appendix K - Bauman et al. v U.S.D.C., 557 F.2d 650 (9th Cir. 1977)

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☒ reported at 21-70683, 9th Circuit; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was April 23, 2021.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

3

- 18 USC § 3174 - Judicial Emergency and Implementation
- 18 USC § 3161 - Speedy Trial Act
- 6TH Amendment Speedy Trial

TABLE OF AUTHORITIES CITED

<u>CASES</u>	<u>PAGE</u>
<i>In re Approval of the Judicial Emergency in the Eastern District of California</i>	passim
956 F.3d. 1175 (2020 9 th Cir.)	
<i>Bauman v U.S.D.C.</i> , 557 F.2d 650 (9 th Cir. 1977)	5
<i>Furlow v United States</i> , 644 F.2d at 767-769 (9 th Cir. 1981)	11, 19
<i>Harvest Rock Church v Newsom</i> , U.S. S.Ct. L.Ed.2d (2020) (U.S. Dec. 3, 2020)	18
<i>Klopper v State of NC</i> , 368 U.S. 213, 224, 228, 87 S.Ct. 988, 18 L.Ed. 2d (1967)	19
<i>Nebbia v People of New York</i> , 291 U.S. 502, 545, 54 S.Ct. 505, 78 L.Ed. 940 (1934)	10
<i>Roman Catholic Diocese of Brooklyn v Cuomo</i> , U.S. 141 S.Ct. 63, 69, L.Ed. 2d (2020)	17, 18
<i>S. Bay United Pentecostal Church v Newsom</i> , U.S. S.Ct. L.Ed. 2d (2020) (U.S. Dec. 3, 2020)	18
<i>United Brotherhood, C.T. v United States</i> , 91 L.Ed. 973, 987, 67 S.Ct. 775	17
<i>United States v Correa</i> , 182 F. Supp. 2d 326, 327 (S.D. NY 2001)	11
<i>United States v Daychild</i> , 357 F.3d 1082, 1090 (9 th Cir. 2004)	10
<i>United States v Henning</i> , SACR 16-00029-CJC-7 (C.D. CA, S.D. 2021)	passim
<i>United States v Castle</i> , 2:15-cr-00190-MCE (E.D. CA - open)	21
<i>United States v Marion</i> , 92 S.Ct. 455, 463, 30 L.Ed. 2d 468 (1971)	7
<i>United States v Nance</i> , 666 F.2d 353, 355 (9 th Cir. 1982)	11
<i>United States v Olsen</i> , 8:17-cr-00076, Doc 67 (C.D. CA, Sept. 2, 2020)	14
<i>United States v Ramirez-Cortez</i> , 213 F.3d 1149 (9 th Cir 2000)	12
<i>United States v Shiekh</i> , 2:18-cr-00119, WBS (E.D. CA 2020)	12, 13, 21
<u>STATUTES</u>	
18 U.S.C. § 3161, 18 U.S.C. § 3174	each passim
<u>OTHER</u>	
<i>Eastern District of California Application to Judicial Council of the 9th Circuit</i>	passim
<i>General Orders - Eastern District of California</i> , 611, 617, 618	passim
H.R. Rep. No. 93-1508, 93 rd Cong. 2d Sess.	7
Sixth Amendment to the Constitution of the United States	passim

Statement of the Case

On March 17, 2020, Eastern District of California Chief Judge Kimberly Mueller issued General Order 611, in response to the Corona Virus pandemic. This General Order (G.O.) included the suspension of jury trials in the Eastern District of California (E.D.C.) until May 2, 2020 (although both bench trials and Grand Juries were able to continue as usual).

On April 8, 2020, Chief Judge Mueller filed an Emergency Judicial Order (EJO) application with the Judicial Council of the Ninth Circuit (JC9th) in accordance with 18 USC § 3174(a).

On April 16, 2020, the JC9th issued Order 956 F.3d 1175 (2020) granting Mueller's application request to extend G.O. 611 for an additional year, expiring May 2, 2021. This Order effectively suspended jury trials in the E.D.C. for those cases whose indictments or informations filed within this one year period (18 U.S.C. § 3174(b)).

Mueller subsequently issued G.O.'s 617 on April 17, 2020, and G.O. 618 on May 13, 2020, each G.O. a modification expressed to supersede its predecessor suspending all jury trials in the E.D.C. (G.O. 618, pt 6) yet granting Judges 'case-by-case' exceptions to set and conduct jury trials (G.O. 618, pt 7).

Petitioner, while held without bail in the Sacramento County Jail, accumulated information which provided conclusive evidence of serious plain error by the E.D.C. and JC9th and filed a Writ of Mandamus with the United States Appellate Court for the Ninth Circuit, dated 26 February 2021, received 22 March 2021, and denied 23 April 2021, using citation of Bauman v U.S.D.C.

357 F.2d 650 (9th Cir. 1977), the merits contained within ignored.

Regardless of Petitioner's failed Mandamus, the evidence that both Mueller and the JC 9th erred is irrefutable; yet erred in different ways (plain errors).

Mueller:

1. by waiting to submit the EJO application twenty-two days after issuance of G.O. 611, upon which the application was based, exceeded the Congressional mandated time limit allowed under 18 U.S.C. §3174(e) of ten days, a twelve day or 120% tardiness.
2. presumed the ability to amend 956 F.3d 1175 (2020) without JC 9th approval. 18 USC §3174, has no provisions and makes no allowances for amendments after Judicial Council approval of an application for EJO. Verbiage within both G.O. 617 and 618, are clear and unambiguous that they were issued as superceding amendments to G.O. 611. 611 having formed the basis of the application approved by the JC 9th.
3. the EJO application purposely truncated 18 USC §3174(b) verbiage to give a false impression that it provided the authority to suspend all jury trials instead of only those indictments or informations filed within the one-year requested extension of G.O. 611, specifically between the dates of April 16, 2020, and April 15, 2021, (yet somehow were skewed to reflect May 2, 2020, and May 1, 2021, going beyond G.O. 30 day limit)
4. using the COVID-19 pandemic, via the EJO, to indiscriminately implement 'ends of justice' clause claims espousing nonexistent court congestion purportedly caused by the

1
2 pandemic and the self imposed court suspensions for the apparent
3 sole purpose of tolling defendants speedy trial clocks to avoid
4 inevitable dismissals and automatic bails while providing the
5 District Attorney's office tactical advantage, especially over those
6 defendants denied bail.

7 "Congress recognized that a defendant who must wait long periods
8 to be tried suffers from a 'magnitude of disabilities', only one
9 of which is the inability to defend himself at trial. A defendant
10 also suffers from severe emotional and financial strain when
11 faced to undergo a non speedy trial." H.R. Rep. No. 93-1508,
12 93rd Cong. 2d Sess., also U.S. v Marion, 92 S.Ct. 455, 463, 30 L.
13 Ed. 2d 468 (1971).

14 Petitioner has been held without bail in Sacramento County
15 Jail for over one year, and for a total of four years; the first
16 three of which were in Australia without bail awaiting
17 extradition.

18 J.C. 9th:

19 1. being negligent in their oversight of an inferior court as to
20 their actions who perverted U.S. Code verbiage to achieve a
21 dubious end goal of blanket suspension of jury trials in the
22 E.D.C.

23 2. being negligent in their obligation to responsibly review
24 the E.D.C. void ab initio EJO application - let alone
25 approving it without remand for correction.

26 Each error in judgement and oversight having caused uncalculable,
27 irreparable harm as evidenced by all E.D.C. defendants speedy
28

trial clocks illicitly haulted during the JC9th endorsed EJO
suspending jury trial courts in the EDOC for an additional year.

The 'unnecessity' of such a suspension is evidenced by the
contrast of the state courts two blocks from the federal
courthouse, where jury trials were interrupted during the
past year for approximately two months (June and December)
although the state contends with smaller and thus much
more crowded conditions than Federal courthouses.

Mueller's and JC9th errors, regardless of being either purposely
initiated or unintentional, have not only trampled Petitioner's
6th Amendment* and Speedy Trial Act rights but have effected
literally thousands of Federal defendants in the EDOC,
their spouses, children, parents and friends who each
continue to endure emotional and mental strain and upheaval -
especially among those who, like Petitioner, have been denied
bail during this time. While not specifically known to Petitioner,
it is highly suspected such abuse of speedy trial rights has
and continues to be experienced as the main excuse used
by the courts to justify 'ends of justice' claims is the
Corona virus (covid-19) pandemic.

* Petitioner also has reasonable claim of both 5th (due process) and
8th (excessive bail/cruel unusual punishment) Amendment violations;
however, will not argue them herein as space does not allow for their
full merits to be elaborated.

Reasons for Granting the Petition

It is the duty of this court to oversee that its inferior courts and those courts enacted by Congress adhere to the law if for no other reason than the courts require citizens to adhere to the law. The following reasons are not isolated local incidents.

The Eastern District of California (EDoC), and apparently other district courts as well, have been methodically tolling defendants Speedy Trial clocks. The EDoC, under false and void Orders from an errant appellate court council, for over a year, effecting thousands of defendants and their families by violating defendants Sixth Amendment* and Speedy Trial Act rights.

If there was the slightest indication that the EDoC actions were not end goal purposeful, calculated and continuous in view of disregard for Federal law by their clear and intentional obfuscation and aversion to Congressionally enacted statute verbiage and mandated timelines provided in 18 USC §3174(b) and (e), this Court may be inclined to forgive a slight transgression.

However, providing such forgiveness would not only accentuate an already jaded public view of the EDoC's brand of justice but would provide every other District and Circuit within these several states of the United States with backroom 'grin and nudge' understanding this Court is complicit with such conduct and that there is no authority that will 'clip their wings' or 'check them'. In short, hold them accountable for attempting to disregard Congressional law and clear mandate of rules and guidelines.

All courts are expected to not only uphold the law of the land

* see '*' on page 8.

but also be pillars of their community and ambassadors of truth and justice. It appears even exalted offices and their holders require, like every man and woman before God, to be reminded of their oaths, obligations and purpose.

Petitioner prays this court will be that firm, even hand - will be that beacon for its children: the inferior courts.

Regardless of the EDO's manipulation of the Judicial Council of the Ninth Circuit (JC9th) and the Emergency Judicial Order (EJO) it issued on April 16, 2020, the basis (GO) upon which the EDO found justification for the blanket suspension of jury trials, such suspension was unnecessary and the result of a panicked, fearful and short-sighted advisory panel amidst a viral pandemic.

The EDO acted without vision as other courts were able to continue full court activities including convening juries and holding jury trials after providing for reasonable protection from the corona virus (COVID-19) for staff, jurors and all other court participants.

Nothing excuses an indefinite (there is no timeline for when one would be scheduled for jury trial once courts reopen for this purpose) blanket suspension of jury trials that were ipso facto unnecessary and draconian, "the constitution does not yield to an emergency." Nebbia v. People of New York, 291 U.S. 502, 545, 54 S. Ct. 505, 78 L. Ed. 940 (1934).

18 U.S.C. § 3161(c)(1) requires that a defendant's trial begin within 70 days of the latter of indictment or defendant's court appearance. It also states, "[t]he Act recognizes, however, that legitimate needs of the government and of a criminal defendant may cause permissible delays." U.S. v. Daychild, 357 F.3d 1082, 1090 (9th Cir. 2004). 18 USC § 3161

(h)(1)-(6) provides delays for exams, appeals, motions, finding essential witnesses and anything else to which the defendant agrees.

What has been abused by the EDC is 18 U.S.C. § 316(h)(7)(A), which has been distributed like peanuts at a baseball game as "a sort of catchall category allowing exclusion of time when a judge finds 'that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.'"

US. v Henning, SACR 16-00029-CJC-7 (C.D. CA, S.D. 2021)

"Congress intended the 'ends of justice' provision to be 'rarely used'."

US. v. Nance, 666 F.2d 353, 355 (9th Cir. 1982) (quoting the Act's legislative history). "Congress enumerated factors courts must consider

in determining whether to grant an 'ends of justice' continuance." Id.

Those factors include "[w]hether the failure to grant such a continuance in the proceeding would likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice." 18 U.S.C. § 316(h)(7)(B)(i). (emphasis added)

While appropriate to use in instances where holding a trial would be impossible, such as natural disasters, "but only where the triggering exigency made the criminal jury trial a physical and logistical impossibility." Henning. Mt. St. Helen triggered a 14 day delay in Furlow v. U.S., 644 F.2d at 767-769 (9th Cir.). 9-11 in New York, a 20 day delay in U.S. v. Correa, 182 F. Supp. 2d 326, 327 (S.D. NY 2001). Unlike those two disasters, travel and communication have never ceased in the EDC.

Moreover, an ends of justice exclusion must be justified

1
2 with reference to specific factual circumstances in the particular
3 case as of the time the delay is ordered." U.S. v. Ramirez-Cortez,
4 213 F.3d at 1154 (contending that an ends of justice continuance
5 was not sufficiently justified...[as] the record showed that the
6 judge "was granting blanket continuances.")

7 Such blanket continuances are being granted with daily
8 regularity in the EDoC using the void ab initio EJO granted
9 upon claims of inability to conduct jury trials because of
10 the COVID-19 pandemic and court congestion. (see EDoC EJO
11 application March 17, 2020, p. 1) Neither of these excuses is
12 sufficient to justify ends of justice continuances, let alone
13 blanket issuance of them; to do so is plain error.

14 Conducting a trial during the pandemic may involve an element
15 of danger but it is not impossible as evidenced by business being
16 engaged in every city and the vast majority of courts holding
17 jury trials during this time frame.

18 The EDoC claims court congestion as a reason to suspend
19 jury trials in their April 8, 2020 EJO application. This is not a
20 valid claim as there is no evidence to support it. (see U.S. v. Sheikh,
21 2:18-cr-00119-WBS, Doc 145, Exhibit 1)

22 18 U.S.C. § 3161(h)(7)(C) is crystal clear on such claims. "No continuances
23 under subparagraph (A) of this paragraph shall be granted because
24 of general court congestion of the court's calendar."

25 In the exhibit referred to in Sheikh is a chart providing all
26 U.S. District Courts and the total amounts of criminal cases, those
27 commenced, terminated and pending for the calendar years 2019
28

1
2 and 2020 ending March 31st. When comparing the ED.C to
3 other districts regarding the total amount of cases v. cases
4 commenced and terminated, no unreasonable amount of
5 backlog of cases is found in comparison to its sister Districts. In
6 fact, the ED.C was the only District in California to record
7 a decrease in cases not terminated (ED -51, CD +233, SD +774,
8 ND +119) between the years 2019 and 2020.

9 Additionally, in ED.C's EJO application, it is admitted there
10 was no court congestion: "we anticipate a significant backlog
11 of trials, given that at least 52 trials district-wide have
12 been continued since mid-March [2020]." (p. 6 P1) (emphasis added)

13 Counsel in Sheikh concurs there is not congestion, "perhaps
14 once the courts reopen, but not prior to or during the suspension
15 and certainly not caused by the pandemic." Any future court
16 congestion is purely self-inflicted by the court/government
17 which is not a concern that should burden or be inflicted
18 upon defendants. (pg. 11, lines 9-10)

19 Furthermore, ED.C GO 611 (precursor to the EJO application)
20 does not say that conducting jury trials is impossible, it doesn't
21 even say it would be unsafe, it merely states, "in order to protect
22 public health, reduce the size of public gatherings [in response to
23 CA Governor Gavin Newsom's suggestion of 10 people or less] and
24 unnecessary travel..." Federal Courts are not respondents to governors.

25 Denial of the pandemic is foolhearty, as evidence of the death
26 toll locally, nationally and internationally is irrefutable. However,
27 regardless of peoples illness or dying from COVID-19, the
28

1
2 Constitution does not react to or rely upon these considerations.

3 "Instead, to protect the fundamental right to a speedy trial
4 guaranteed by the Sixth Amendment, the Constitution requires
5 that a trial only be continued over a defendant's objection
6 if holding the trial is impossible. [Holding jury trials] during the
7 pandemic is not impossible. [Both] the Orange County Superior
8 Court [and the Sacramento County Superior Court] [as well as
9 many others] have proven this to be the case." Henning opinion
10 p.7.

11 The fundamental action of E.D.C. causing court shutdowns
12 providing presumptive ability by its judges to abuse 'ends of justice'
13 tolling defendants speed trial clock was the issuance of
14 G.O. 611. "[B]y their very nature, ... General Orders do not justify
15 [court] delays as of the time they are ordered in any particular
16 case and are thus contrary to the Sixth Amendment and the 'ends
17 of justice'. U.S. v. Olsen, 8:17-cr-00076, Doc 67 (CD Cal. Sept 2, 2016)
18

19 Chief Judge Kimberly Mueller submitted a request for Emergency
20 Judicial Order to the JCGth with the end goal of obtaining a
21 one-year extension of her G.O. 611, which among other provisions,
22 suspended jury trials in the E.D.C. This was granted by the
23 JCGth expressed in their 956 F.3d 1175(2020) Order.

24 Within the application, 18 U.S.C §3174(b) was relied upon, "...
25 grant a suspension of time limits provided by the Speedy Trial
26 Act, 18 U.S.C. §3161(c), for a period of time not to exceed
27 one-year, as allowed by 18 U.S.C §3174(b)." This statement
28

prima facie appears straightforward and clear. Yet when compared to the actual verbiage of 18 U.S.C. § 3174(b) a different message is conveyed. The full statute continues to say, "... not to exceed one-year for the trial of cases for which indictments or informations are filed during such one-year period." (emphasis added)

The purposeful omission and truncation of the code provides the impression that the suspension would be applicable to all cases in the EDOC, which clearly it does not. Such deception, while clever and typical legal avoidance of facts, is devious with deceitful intent. It is no secret the EDOC sought an avenue to suspend all jury trials, regardless of the indictment or information date, to avert the looming necessity of granting Sixth Amendment* and Speedy Trial Act automatic bail and, in many cases, dismissal with prejudice. There are thousands of cases outside the ambit of the full reading of 18 USC § 3174(b) within the EDOC adversely effected by the erroneous blanket application of jury trial suspension. Petitioner included.

To compound this issue, EDOC acted without authority modifying the EJO not once but twice with the issuance of G.O.'s 617 (April 17, 2020) and G.O. 618 (May 13, 2020) whose verbiage confirms these included and superceded the previous G.O.'s 611-616.

There are no provisions within 18 USC § 3174, allowing for modification of an order issued by a Judicial Council of a circuit court by an inferior court. It provides no guidelines in this regard. However, as the initial one-year extension was applicable to G.O. 611 as the operative G.O. concerning

* Petitioner has repeatedly refused to waive time.

1
2 courts jury trial status, it stands to logically reason the
3 same approval from the circuit court judicial council would
4 be required for any changes, modifications or enhancements
5 to the original Order. There is no evidence either the
6 EDOC sought nor any evidence the JC9th gave such approval
7 for modifications. (i.e.: new G.O., new approval.) (plain error)

8 There is no evidence and Petitioner believes none exists that
9 the EDOC did not purposely evade authorization requirements
10 to acquire approval of any modifications of the EJO
11 if the EDOC desired for those modification G.O.'s to
12 extend beyond their statutory mandated life of 30 days
13 after issue.

14 Suffice it to say, G.O. 617 died/ended on May 17, 2020, and
15 correspondingly G.O. 618 did so on June 12, 2020.

16 If one gives weight to the EJO application being valid and
17 not void ab initio, the question then becomes, did the
18 superceding G.O.'s nullify 956 F.3d 1175 (2020) as the operative
19 aspects upon which it was granted were incorporated in
20 non approved G.O.'s or are the rogue G.O.'s to be taken
21 at face value on their own outside of 956 F.3d 1175 (2020)
22 with no effect beyond their 30 day life cycle?

23 The difficulty in this is, again, the superceding verbiage
24 within both G.O. 617 and G.O. 618, each showing clear intent
25 to incorporate and make obsolete G.O.'s 611-616.

26 The only other possibility has been already discussed
27 and does not appear possible within 18 U.S.C. § 3174, that
28

being G.O. 617 and G.O. 618 somehow being grandfathered into the approval provided by 956 F.3d 1175 (2020). But then how does one grandfather something that happened after the fact?

Such independent actions, taking leave of Federal procedure and Congressional intent, appears to be commonplace in today's E.D.C. Given the recent actions by the E.D.C. Circuit Court Order modifications without authority; purposeful misrepresentation of Congressionally issued statutes (18 U.S.C. § 3174(b)); claiming non-existent court congestion; and misapplication and abuse of the 'ends of justice' clause to support their end goal of blanket suspension of all jury trial clocks to ultimately avoid dismissals and automatic bail because of speedy trial violations; and one begins to question the overall atmosphere of the E.D.C. leadership.

These all require oversight investigation and, where possible, immediate relief for effected defendants in the E.D.C., as the Court has "the power to notice a 'plain error'..." United Brotherhood v U.S., 675.04775.

"The principle that [g]overnment is not free to disregard the [Constitution] in times of crisis" applies in full force during this pandemic. Roman Catholic Diocese of Brooklyn v Cuomo, U.S., 141 S.Ct. 63, 69, L.Ed. 2d (2020) as cited in Henging

Drawing again from Roman Catholic Diocese (RCD), Judge Cormac J. Carney expressed the Supreme Court's concern about "houses of worship - spaces where people practice their constitutional right to the free exercise of religion - faced more restrictions than businesses categorized as 'essential'" (RCD at 66-67)

The court further suggested that people's rights exceeded any potential COVID-19 risk and safety measures should be taken "rather than trying to avoid the risks altogether" (Id. at 67)

California Governor Gavin Newsom and his COVID tiered system (which the EDOC appeared to wish to conform to when issuing G.O.'s) also encountered Supreme Court relief for churches: Harvest Rock Church v. Newsom, US S.Ct L. Ed 2d(2020) WL 7061630, at*1 (U.S. Dec 3, 2020); S. Bay United Pentecostal Church v. Newsom, 981 F.3d 765, 766 (9th Cir. 2020) (District Courts Order denying motion for injunctive relief vacated and remanded back for further consideration in light of both Harvest Rock and RCD decisions.

In these cases the concept of essential services was used as a comparison to continue their activities with any necessary precautions taken, which they have and did.

EDOC claims the same essential services status for the court and all employees when it came to receiving COVID-19 vaccinations, not recognizing the irony of doing so in light of closing jury trial courts (essential services have been operating with precaution throughout the pandemic.)

This is typical of the EDOC policy of wanting their cake and eat it too.

In accordance with the national ramifications for all churches in the above named cases requiring Supreme Court attention, so to do all petitions concerning the courts require said attention as 6th Amendment and Speedy Trial Act rights are of concern to

1
2 all defendants, Districts and Circuits in this nation.

3 The inherent importance of "the right to a speedy trial has
4 roots at the very foundation of our English law heritage, and is
5 one of the most basic rights preserved by our Constitution." U.S. v
6 Henning quoting Klopfer v State of NC, 386 U.S. 213, 224, 228,
7 87 S.Ct. 988, 18 L.Ed. 2d (1967)

8 "Indeed, '[e]xcept for the right of a fair trial before an impartial
9 jury, no mandate of our jurisprudence is more important' than
10 a defendant's right to a speedy trial." U.S. v Henning quoting

11 Furrow

12 Yet the E.D.C., and by complicity (granting void ab initio
13 application) the U.S. Court of Appeals for the Ninth Circuit, are
14 guilty of denying these rights on a monumental scale affecting
15 thousands of defendants in the E.D.C., their families, spouses
16 and children, Petitioner included.

17 As the pandemic has effected the entire country, this matter
18 for consideration has significant relevance for all defendants both Federal
19 and State, as well as those courts within the United States jurisdiction.

20 This matter requires review and opinion, if for no other reason than
21 to remind the inferior courts that they too are required to uphold the
22 Constitution and follow the procedural laws of this nation; that they
23 are not above the necessity to grant relief, bail and/or dismissals
24 even when inconvenient or pressured by the District Attorney's office.
25 That they, too, are simply men and women holding an office that
26 has a superior to which they must answer.

1
2 A final aspect for consideration concerns the fractured views
3 both within and among the various District and Circuit courts.

4 Both the Central District of California and E.D.C. are experiencing
5 conflicts of opinion regarding the suspension of jury trials and the
6 resulting speedy trial clock (both Sixth Amendment and Speedy Trial Act)
7 violations and each have issued conflicting decisions illustrating this
8 conflict.

9 In the Central District the original G.O. concerning the pandemic
10 and courts issued by Chief Judge Phillip S. Gutierrez was issued
11 after a majority vote of fellow Central District judges - signifying
12 dissent from within from the beginning. (suspension of jury trials)

13 Judge Cormac J. Carney repeatedly (5 times) submitted requests
14 to Gutierrez to "summon jurors for jury trials in cases where
15 defendants refused to waive further time under the Speedy Trial Act."
16 Henning. Each time he was denied. Recognizing the suspension
17 violated defendants rights, both constitutional and statutory,
18 Carney dismissed four cases in January 2021, citing violation of
19 their speedy trial rights. Much to the chagrin and simmering upset
20 of several of his colleagues - but not all, as U.S. District Judge
21 David Carter agrees and is "deeply concerned about the lack of
22 access to justice for the poor and underprivileged by the indefinite
23 closure of my court." As told to a Times DC reporter.

24 Similarly, the original G.O. concerning the pandemic and
25 courts issued by Chief Judge Kimberly Mueller was also
26 issued after a majority split vote. The apparent rift of
27 opinion of the veracity and Constitutional correctness of the
28

1
2 **EDoC** suspension of jury trials and its effect on defendants
3 constitutional speedy trial rights.

4 U.S. EDoC Judge William B. Shubb in October 2020, also
5 dismissed a pending jury trial (Shiekh), citing Sixth Amendment
6 and Speedy Trial Act violations. Again to the chagrin and
7 restrained upset of some other members of the court who have
8 routinely denied such motions claiming 'ends of justice', the
9 pandemic and the EDoC G.O.'s backed by the one-year approval
10 extension 956 F.3d 1175 (2020). (suspending jury trials)

11 It is cardinal upon this court to provide an opinion on
12 this polarizing point of law. It holds tremendous ramifications
13 for multitudes of defendants in the EDoC and across this
14 country currently in limbo questioning whether the courts
15 will uphold their constitutional and speedy trial rights in the
16 face of ends of justice claims.

17 Furthermore, Petitioner prays for relief from the void ab initio
18 EJO 956 F.3d 1175 (2020) and a dismissal with prejudice in
19 petitioner's matter (2:15-cr-00190-mce) before the EDoC for both the
20 constitutional and Speedy Trial Act violations set forth herein.

21 Finally, for this court to provide reminders to the inferior
22 courts that the Constitution may not be ignored nor set aside
23 and the enforcement thereof is imperative. Congressional
24 statutes are written unambiguously and succinctly to be abided
25 by and applied as intended and are not open to interpretation
26 or alteration by the courts.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

James Christopher Castle

Date: 14 May 2021