No. 21-1336

In the Supreme Court of the United States

JEFFREY OLSEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF THE CATO INSTITUTE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF AMICUS CURIAE[1]

The Cato Institute is a nonpartisan public policy research foundation founded in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Project on Criminal Justice was founded in 1999, and focuses in particular on the scope of substantive criminal liability, the proper and effective role of police in their communities, the protection of constitutional and statutory safeguards for criminal suspects and defendants, citizen participation in the criminal justice system, and accountability for law enforcement officers.

Cato's concern in this case is preserving the constitutional principles underpinning our criminal justice system, namely the right to a speedy trial guaranteed by the Sixth Amendment and the Speedy Trial Act of 1974, in order to stem the erasure of the jury trial from American courtrooms due to the increasing prevalence of plea bargaining.

[1] Rule 37 statement: All parties were timely notified and consented to the filing of this brief. No part of this brief was authored by any party's counsel, and no person or entity other than *amicus* funded its preparation or submission.

SUMMARY OF ARGUMENT

The right to a jury trial has been described as "the heart and lungs" of liberty "without which the body must die." *United States v. Haymond*, 139. S. Ct. 2369, 2375 (2019) (internal citations omitted). Under our Constitution, and within the Anglo-American legal tradition generally, the jury trial is the cornerstone of criminal adjudication. As long as there has been criminal justice in America, the independence of citizen jurors has been understood to be an indispensable structural check on executive, legislative, and even judicial power.

The Founders took great care in establishing the framework for the American criminal justice system, not only by guaranteeing the right to a trial by jury generally, but by laying out in specific detail the form such trials shall take. *See* U.S. Const. amends. V, VI. Among the constitutional guarantees afforded to criminal defendants is the Sixth Amendment guarantee to a speedy trial. The speedy trial guarantee is crucial to the attainment of justice, and without it criminal defendants would be subjected to lengthy pretrial incarceration, the impairment of individual liberties, and the general disruption of life that accompanies arrest and criminal prosecution.

In an effort to define and enforce the Sixth Amendment's speedy trial guarantee, Congress enacted the Speedy Trial Act of 1974. But the Ninth Circuit's decision below severely undermines the inviolability of the right to a speedy trial by rendering the Speedy Trial Act's requirements hollow and ineffective. By allowing open-ended continuances and prohibiting the dismissal of cases based on local orders and alleged safety concerns, the Ninth Circuit has placed criminal

defendants at a distinct disadvantage. These defendants will now have to wait indeterminately long for their day in court, invariably pressuring them to seek plea bargains due to the looming presence of pending criminal charges.

The COVID-19 pandemic stalled court proceedings nationwide. Now, almost two years later, many criminal defendants are still waiting for their day in court. The Supreme Court has held that "even in a pandemic, the Constitution cannot be put away and forgotten." *Roman Catholic Diocese v. Cuomo*, 141 S. Ct. 63, 68 (2020). Permitting fears about the pandemic to triumph over the Constitution will further dilute the protections of the Speedy Trial Act and the speedy trial guarantee.

It is especially important to protect the sanctity of the speedy trial guarantee, in light of the near-disappearance of the criminal jury trial generally. Today, jury trials have been all but replaced by plea bargaining as the baseline for criminal adjudication, and there is ample reason to doubt whether the bulk of these pleas are truly voluntary. If defendants are forced to face indefinite delays and uncertainty surrounding when they might go to trial, they will feel increased pressure to plead guilty. Disregarding the importance of a speedy trial not only places coercive pressure on criminal defendants, whether guilty or innocent, but also contributes to the erasure of criminal jury trials from American courtrooms.

ARGUMENT

I. DISREGARD FOR THE IMPORTANCE OF THE SPEEDY TRIAL WILL LEAD TO THE CONTINUED ERASURE OF THE JURY TRIAL FROM THE AMERICAN CRIMINAL JUSTICE SYSTEM.

There are few rights as fundamental to liberty and justice as the right to a jury trial. "[T]hose who wrote our constitution considered the right to trial by jury the heart and lungs . . . of our liberties, without which the body must die; the watch must run down; the government must become arbitrary." *United States v. Haymond*, 139 S. Ct. at 2375 (internal quotations omitted). As such, the Founders took great care in creating the framework for the jury trial and the American criminal justice system in general. It was not enough for the Founders to simply guarantee the right to a trial—it was imperative that the trial be handled without unnecessary delay.

A. The Ninth Circuit's Opinion Is At Odds With the Language and Purpose of the Speedy Trial Act and the Sixth Amendment Speedy Trial Guarantee.

The Sixth Amendment guarantees to all criminal defendants the right to a speedy trial. *See* U.S. Const. amend. VI ("In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial . . . ."). The importance of speedy justice dates back to 1215 and the language of Magna Carta. *See* Magna Carta cl. 40 (1215) ("We will not sell, or deny, or delay right or justice to anyone."). This principle is a critical element of the American criminal justice system and without

the guarantee of speedy justice, individual liberty becomes jeopardized.

The purpose of the speedy trial guarantee is to limit the possibility of lengthy pretrial incarceration, reduce the impairment of liberty imposed on defendants released on bond, and to lessen the disruption of life caused by arrest and pending criminal charges. *United States v. MacDonald*, 456 U.S. 1, 7 (1982); *see also Strunk v. United States*, 412 U.S. 434, 439 (1973) ("The speedy trial guarantee recognizes that a prolonged delay may subject the accused to an emotional stress that can be presumed to result in the ordinary person from uncertainties . . . uncertainties that a prompt trial removes."). Legal scholars have written extensively on how the prolonged delay of criminal trials is tantamount to the denial of fundamental justice. *See* Nicholas Babaian, *The Clock Stops Here: A Call for Resolution of the Circuit Split on Plea Bargain Exclusions within the Speedy Trial Act*, 54 New Eng. L. Rev. 239, 240 (2020) ("Legal scholars for generations have equated the delay of a criminal trial with a denial of fundamental justice.") (internal citations omitted).

Although the Sixth Amendment promises defendants speedy trials, Congress sought to give more meaning to the speedy trial guarantee. For this reason, it passed the Speedy Trial Act of 1974. The Act "serves not only to protect defendants, but also to vindicate the public interest in the swift administration of justice." *Bloate v. United States*, 559 U.S. 196, 211 (2010).

The Speedy Trial Act sets deadlines by which courts must fully adjudicate criminal cases. 18 U.S.C. § 3161(c)(1). In the event these deadlines are not met, the district court has discretion to dismiss the indictment. § 3162(a)(2). The ends-of-justice provision of the

Speedy Trial Act allows courts to exclude delays resulting from a continuance where "the ends of justice served by taking such action out-weigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A); *see also Zedner v. United States*, 547 U.S. 489, 508-09 (2006) (describing the purpose and applicability of ends-of-justice continuances).

While the language of the Speedy Trial Act appears to provide strict rules and mandatory timeframes for criminal cases, over the last thirty years, federal courts have abused the ends-of-justice provision and effectively circumvented the purpose of the Act. Babaian, *supra*, at 719 ("Because the ends-of-justice continuance provides district courts with flexibility and a degree of subjectivity about the need for pretrial delays, the continuance has been one of the most frequently abused provisions of the STA."). Although this provision was intended to be applied sparingly and in limited circumstances, district courts have been increasingly flexible in their application of the ends-of-justice provision. *See* Shon Hopwood, *The Not So Speedy Trial Act*, 89 Wash. L. Rev. 709, 719 (2014) (examining the different ways in which district courts have justified ends-of-justice continuances).

One of the most frequent examples of such application is the issuance of broad, open-ended continuances. "Despite Congressional belief that the ends-of-justice continuances would be a highly circumscribed and a rarely used process, several courts of appeals have held that trial courts may grant open-ended continuances." *Id.* at 724. Circuit courts allowing open-ended continuances have varying requirements, but many simply require a relatively abstract showing of reasonableness before an open-ended continuance may be

granted. *See United States v. Rush*, 738 F.2d 497, 508 (1st Cir. 1984) (finding that open-ended continuances are permissible when it is impossible to know "exactly how long the reasons supporting the continuance will remain valid"); *United States v. Lattany*, 982 F.2d 866, 868 (3d Cir. 1992) (allowing open-ended continuances if "they are reasonable in length").[2]

While the majority of Circuit Courts have leaned toward allowing open-ended continuances, the Second Circuit and the Ninth Circuit stand in staunch opposition. *See United States v. Gambino*, 59 F.3d 353, 358 (2d Cir. 1995) (holding that continuances under the Speedy Trial Act must be "limited in time"); *United States v. Clymer*, 25 F.3d 824, 829 (9th Cir. 1994) (finding that the purpose of the Speedy Trial Act would be "seriously distorted" if open-ended continuances were permitted). In fact, until its opinion below, the Ninth Circuit was arguably the most conservative in its interpretation of the Speedy Trial Act. It has consistently held that allowing open-ended continuances under the ends-of-justice provision "could exempt the entire case from the requirements of the Speedy Trial Act altogether, and open the door for wholly unnecessary delays in contravention of the Act's purpose." *United States v. Jordan*, 915 F.2d 563, 565-66 (9th Cir. 1990).

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[2] *See also United States v. Jones*, 56 F.3d 581, 586 (5th Cir. 1995) (allowing open-ended continuances where the same is "adequately justified by the circumstances of the particular case"); *United States v. Spring*, 80 F. 3d 1450, 1458 (10th Cir. 1996) ("[W]hile it is preferable to set a specific ending date for a continuance, there will be rare cases where that is not possible, and an open-ended continuance for a reasonable time period is permissible."); *United States v. Sabino*, 274 F.3d 1053, 1065 (6th Cir. 2001) (finding open-ended continuances "permissible in cases where it is not possible to preferably set specific ending dates").

Previous Ninth Circuit precedent further reinforced the more general idea that the ends-of-justice provision is a rare exception, only to be used in specific circumstances. *See United States v. Pollock*, 726 F.2d 1456, 1461 (9th Cir. 1984) ("The 'ends of justice' exclusion, was not, however, meant to be a general exclusion for every delay no matter what its source, but was to be based on specific underlying factual circumstances."); *Clymer*, 25 F.3d at 829 ("The 'ends of justice' exclusion in § 3161(h)(8)(A) was 'intended by Congress to be rarely used, and [] the provision is not a general exclusion for every delay." (quoting *Jordan*, 915 F.2d at 565)).

The District Court in this case determined that an ends-of-justice continuance was inappropriate and that Mr. Olsen's speedy trial rights had been violated. Consequently, it dismissed Mr. Olsen's indictment based on the remedy provision of the Speedy Trial Act, which requires dismissal in the event the court finds a violation of the defendant's rights under the Act. *See* 18 U.S.C. § 3162(a)(2). In reversing the District Court's order, the Ninth Circuit took the Speedy Trial Act's mandatory remedy and effectively made it available only to those defendants it deemed worthy. *See United States v. Olsen*, No. 20-50329, 2022 U.S. App. LEXIS 513, at *107-08 (9th Cir. Jan. 6, 2022) (Collins, J., dissenting) ("By allowing continuances to be granted . . . on the ground that the defendant does not deserve the Act's mandatory remedy, the panel's decision threatens to destroy a central feature of this singularly important statute."), *reh'g en banc denied*.

Of course, resolving this case does not necessarily require that the Court offer a definitive opinion on whether open-ended continuances are *inherently*

improper under the Speedy Trial Act. But the increasing prevalence of the practice illustrates just how watered down the protections of the Speedy Trial Act have become and how urgently the Court's guidance is needed in this area of law.

B. The Ninth Circuit's Disregard for the Importance of the Speedy Trial Right Will Directly Contribute to the Continued Erasure of the Criminal Jury Trial.

The jury trial is foundational to the notion of American criminal justice, and it is discussed more extensively in the Constitution than nearly any other subject. Yet despite the intent to have the jury trial act as the central pillar of our criminal justice system, jury trials have all but disappeared from modern American courtrooms. The proliferation of plea bargaining, which was completely unknown to the Founders, has transformed our robust "system of trials" into a "system of pleas." *Lafler v. Cooper*, 566 U.S. 156, 170 (2012); *see also* George Fisher, *Plea Bargaining's Triumph*, 109 Yale L.J. 857, 859 (2000) (observing that plea bargaining "has swept across the penal landscape and driven our vanquished jury into small pockets of resistance").

Today, guilty pleas comprise all but a tiny fraction of convictions. When Mr. Olsen was indicted in 2017, 97.2% of criminal convictions were the result of guilty pleas. 2017 Sourcebook of Fed. Sent'g Stats., Figure C (U.S. Sent'g Comm'n 2017).[3] Today, that number has only increased, with 98.3% of convictions resulting

[3] *Available at* https://bit.ly/3LFcjgE.

from guilty pleas in 2021. 2021 Sourcebook of Fed. Sent'g Stats., Table 11 (U.S. Sent'g Comm'n 2021).[4]

These statistics are extraordinarily concerning because there is ample reason to believe that many criminal defendants—regardless of factual guilt—are effectively coerced into taking pleas, simply because the risk of going to trial is too great. *See* Jed S. Rakoff, *Why Innocent People Plead Guilty*, N.Y. Rev. of Books., Nov. 20, 2014.[5] Indeed, according to the National Registry of Exonerations, 18 percent of known exonerees pleaded guilty to crimes that it is virtually certain they did not commit. *Why Do Innocent People Plead Guilty To Crimes They Didn't Commit?*, The Innocence Project (2018).[6] Yet, "[i]nstead of vacating their convictions on the basis of innocence, the prosecution offers the wrongly convicted a deal—plead guilty." *Id.*

The government is at a distinct advantage during the plea bargaining process. "Plea bargaining merges the[] accusatory, determinative, and sanctional phases of [criminal] procedure in the hands of the prosecutor." John H. Langbein, *Torture and Plea Bargaining*, 46 Univ. Chi. L. Rev. 3, 18 (1978). Therefore it comes as no surprise to learn that many of those who plead guilty "have been induced by the government to do so." Clark Neily, *A Distant Mirror: American-Style Plea Bargaining through the Eyes of a Foreign Tribunal*, 27 Geo. Mason L. Rev. 719, 726 (2020).

Prosecutors have a number of tools at their disposal to pressure defendants into pleading guilty, including,

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[4] *Available at* https://bit.ly/3Mv0ud0.

[5] *Available at* https://bit.ly/3KC6EHa.

[6] *Available at* https://bit.ly/3OHEptX.

but not limited to: threatening increased penalties for defendants hoping to go to trial (commonly known as the "trial penalty"),[7] threatening to add charges in an effort to increase a potential sentence,[8] withholding exculpatory evidence during plea negotiations,[9] threatening to use uncharged or acquitted conduct to enhance a potential sentence,[10] and threatening to prosecute family members.[11] *See also* Neily, *supra*, at 730.

Most importantly for this particular case, prosecutors also use the threat of pretrial incarceration as a means of pressuring defendants to plead guilty. *Id.* at 733 ("Research indicates that pretrial detention represents a powerful plea-bargaining lever because individuals who are incarcerated while awaiting trial are demonstrably more likely to plead guilty than people who are free."). Defendants facing pretrial incarceration face immense pressure to plead guilty, particularly when holding out for acquittal may mean spending weeks, months or years behind bars. *See Barker v. Wingo*, 407 U.S. 514, 532 (1972) ("The time spent in jail awaiting trial has a detrimental impact on the individual.").

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[7] *See generally* Nat'l Assoc. of Crim. Def. Law., The Trial Penalty: The Sixth Amendment Right to Trial on the Verge of Extinction and How to Save It 5 (2018), https://bit.ly/38IF8KG.

[8] *Id.* at 50.

[9] *See* Michael Nasser, *Plea Bargaining in the Dark: The Duty to Disclose Exculpatory Brady Evidence During Plea Bargaining*, 81 Fordham L. Rev. 3599, 3613 (2013).

[10] *See* William R. Kelly & Robert Pitman, Confronting Underground Justice 75 (2018).

[11] *Id.*

It is no secret that prosecutors have taken advantage of pretrial detention as a means of obtaining guilty pleas. *See* Russel M. Gold, *Paying for Pretrial Detention*, 98 N.C.L. Rev. 1255, 1269 (2020) ("Detaining a defendant pretrial affords the government a massive advantage in securing guilty pleas."). Those incarcerated prior to trial face economic and societal challenges, including loss of employment, disruption to family life, and pressure from public accusation of a crime. Rachel A. Harmon, *Why Arrest?*, 115 Mich. L. Rev. 307, 313-20 (2016) (detailing the specific effects of pretrial detention). Moreover, defendants detained before trial "are more likely to be convicted and to serve longer sentences than defendants with comparable risk levels who are released before trial." Lauryn P. Gouldin, *Disentangling Flight Risk from Dangerousness*, 2016 BYU L. Rev. 837, 860 (2016). Therefore, it is unsurprising that "pretrial detainees—even those who claim innocence—feel heightened pressure to plead guilty." *Id.*

More than one-third of all criminal defendants face pretrial incarceration. Nick Petersen, *Do Detainees Plead Guilty Faster? A Survival Analysis of Pretrial Detention and the Timing of Guilty Pleas,* 31 Crim. Just. Pol'y Rev. 1015 (2020). Defendants detained prior to trial plead guilty 2.86 times faster than those who post bail. *Id.* Researchers have found that the psychological effects of pretrial detention cause many detainees to plead guilty for no other reason than to escape incarceration. *Id.* ("Detainees often plead guilty to escape poor confinement conditions, keep their job, or hold their family together."). Additionally, pressures stemming from uncertainty surrounding the duration of pretrial detention directly correlates with higher rates of guilty pleas. *Id.* Prosecutors use these

pressures and fears to their advantage in the plea bargaining process—relying on their ability to request pretrial detention as a "prosecutorial hammer." *Id.* As a result, many detainees, including those who maintain their innocence, plead guilty rather than wait a potentially indeterminate amount of time for trial. Nancy Gertner, Bruce Bower & Paul Schectman, *Why Innocent Plead Guilty: An Exchange*, N.Y. Rev. of Books, Jan. 8, 2015.[12]

Even defendants who do not face pretrial detention are still pressured by lengthy pretrial delays of the sort that the Sixth Amendment and the Speedy Trial Act were meant to guard against. Criminal proceedings considerably impact a defendant's life, "whether he is free on bail or not." *United States v. Marion*, 404 U.S. 307, 320 (1971). Even when a defendant posts bail, the looming presence of criminal prosecution "may disrupt his employment, drain his financial resources, curtail his associations, subject him to public obloquy, and create anxiety in him, his family and his friends." *Id.* "[E]ven if an accused is not incarcerated prior to trial, he is still disadvantaged by restraints on his liberty and by living under a cloud of anxiety, suspicion, and often hostility." *Wingo*, 407 U.S. at 533. Most notably, when a defendant faces lengthy delays between indictment and trial, there is a presumption that the prejudice caused by pretrial delay "intensifies over time." *Doggett v. United States*, 505 U.S. 647, 652 (1992) (finding that the "extraordinary 8 ½-year lag" between the defendant's indictment and his arrest clearly "triggered a speedy trial inquiry").

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[12] *Available at* https://bit.ly/3FdFoOc.

The Central District of California, in its opinion below, noted that the United States Attorney's Office for the Central District authorized its prosecutors to offer better deals to defendants "so long as they waive their right to in-person hearings, sign plea agreements quickly (before October 16, 2020), and enter their plea at the first date ordered by the court." *United States v. Olsen*, 494 F. Supp. 3d 722, 731 (C.D. Cal. 2020). "In other words, the government is [] offering very favorable plea deals, based not on the defendant's individual circumstances, but rather based on exigencies manufactured by the Central District's refusal to resume jury trials." *Id.* This method of adjudication is in direct opposition to the system of American criminal justice contemplated by the Founders, and it further leads to the conclusion that "if a jury trial is the 'heart and lungs of liberty' than a plea bargain is the knife that viciously removes it from the body of justice." Babaian, *supra*, at 247.

The speedy trial guarantee and the Speedy Trial Act were designed to curb injustices resulting from prolonged delays in criminal proceedings. However, the Ninth Circuit's decision below "twists the text of the Speedy Trial Act beyond recognition." Appellant's Br. at 21. The court's opinion ignores the Act's text and purpose by authorizing open-ended and long-term prohibitions on criminal jury trials under the guise of serving justice. In effect, the Ninth Circuit's opinion allows District Courts to utilize the ends-of-justice provision to suspend speedy trial rights indefinitely. *See Doggett,* 505 U.S. at 652. In theory, the negative effects of prolonged trial delays are supposed to be "limited by the stringent time limitations of the Speedy Trial Act." *United States v. Salerno*, 481 U.S. 739, 747 (1987). But those limitations have "been watered down to the point

where [they] no longer have any taste." Hopwood, *supra*, at 739.

The disappearance of the jury trial is a deep, structural problem that far exceeds the bounds of any one case or doctrine. However, we can avoid further discouraging defendants from exercising their right to a jury trial by preserving the Speedy Trial Act and the Sixth Amendment speedy trial guarantee.

II. LOCAL ORDERS SUSPENDING JURY TRIALS DUE TO THE COVID-19 PANDEMIC DO NOT ABROGATE THE CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL.

Since the beginning of the COVID-19 pandemic, courts have struggled with to how to safely hold trials without infringing upon individual liberties. At the start of the pandemic, courts throughout the country chose to temporarily suspend in-person proceedings due to safety concerns and uncertainties surrounding the severity of the virus. Over two years later, the virus is still cause for concern and our nation is working on coming to terms with this "new normal." With the slow return to in-person proceedings, criminal defendants have been left in limbo. Bans on jury trials spanning the past two years have forced criminal defendants to endure significant delays and impediments on their individual rights.

In the Central District of California, where Mr. Olsen's case awaited jury trial, criminal trials were suspended for almost two entire years. *See* Order of the Chief Judge 22-004, C.D. Cal. (Feb. 8, 2022) (ordering the resumption of jury trials in the Central District of

California beginning February 22, 2022).[13] During this time, however, grand juries were still issuing new indictments, even while the ban on jury trials remained in full force and effect. *See Olsen,* 494 F. Supp. 3d at 728-29 (noting that grand juries had convened and issued 41 indictments from the Central District of California's courthouse between June and September 2020). Yet despite the Central District's allowance of in-person grand jury proceedings, it maintained that it was unsafe to resume in-person criminal jury trials. Therefore, when Mr. Olsen sought to enforce his constitutional and statutory right to a speedy trial, the Chief Judge and the Ninth Circuit balked at his request. Judge Cormac, in finding that the District's local order temporarily halting jury trials did not supplant Mr. Olsen's constitutional rights, saw no other option than dismissing the indictment based on a violation of the Speedy Trial Act.

While courts struggle with how to reopen and manage their overcrowded dockets, criminal defendants continue to suffer the consequences of the two-year pause. In *Roman Catholic Diocese v. Cuomo*, the Supreme Court reviewed an Executive Order issued by the New York Governor, which imposed severe restrictions on attendance at religious services in areas with high numbers of COVID-19 cases. 141 S. Ct. at 68. In granting an injunction against the State's order, the Supreme Court held that the State's COVID-19 restrictions undoubtedly infringed upon the guarantees of the First Amendment, reasoning that "even in a pandemic, the Constitution cannot be put away and forgotten." *Id.* at 68.

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[13] *Available at* https://bit.ly/3kqyVFM.

In reviewing the Ninth Circuit's decision below, this Court should apply the same reasoning from its holding in *Cuomo*. "Even in the midst of a pandemic, there are some things that, in a constitutional republic, should be all but unthinkable." *United States v. Olsen,* 2022 U.S. App LEXIS at *69 (Collins, J., dissenting) (citing *Cuomo*, 141 S. Ct. at 68). Among those "unthinkable" measures is the suspension of the speedy trial guarantee. While "[t]he Constitution principally entrusts the safety and health of the people to the politically accountable officials of States, . . . judicial deference in an emergency or a crisis does not mean wholesale judicial abdication." *Cuomo*, 141 S. Ct. at 73-74 (Gorsuch, J., concurring).

"[T]he Constitution's guarantees cannot mean less today than they did the day they were adopted." *United States v. Haymond*, 139 S. Ct. at 2376. By reviewing open-ended continuances based on an arbitrary safety standard of its own creation, the Ninth Circuit has diluted the Speedy Trial Act to the point of meaninglessness. The Ninth Circuit's interpretation of the Speedy Trial Act allows for complete circumvention of the speedy trial guarantee by giving District Courts authority to indefinitely suspend jury trials based on local orders and subjective safety concerns. This result is at not only at odds with the text and purpose of the Speedy Trial Act; it is incompatible with the framework for liberty and justice established by our Constitution. If the Court does not step in to curb the steady corrosion of the Speedy Trial Act and the speedy trial guarantee, criminal defendants will be effectively stripped of one of their most fundamental rights.

CONCLUSION

For the foregoing reasons, and those described by the Petitioner, this Court should grant the petition.

Respectfully submitted,

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