

FROM: 44899069

TO: ~~XXXX~~ *LISA NESBITT*

SUBJECT: Petition for Reconsideration

DATE: 11/22/2021 09:21:46 AM

No. 21-250

Supreme Court of the United States

Khamraj Lall

Petitioner

v.

United States of America

Respondent

On Petition for a Writ of Certiorari to the United States Court of appeals for the District of New Jersey.

Petition for Reconsideration or a remand to the Third Circuit.

Grounds for Reconsideration or remand.

This petition will certify the grounds are limited to intervening circumstances of substantial and controlling effect according to *Barker v Wingo*, 407 U.S. at 531, preserving the important findings by the Third Circuit of appeals in this case. Please see question #2 presented and exhibits A and C of the Writ of Certiorari.

On appeal to the Third Circuit, Mr. Lall raised two claims in the denial of his rights under the Sixth Amendment and the Speedy Trial Act. First, Mr. Lall was not indicted within 30 days of his arrest in the District of New Jersey. He was indicted 3 1/2 years later. Second, Mr. Lall Claims that 140 days had passed between the superseding indictment and his trial also constitutes non-excludable time under the Speedy Trial Act.

The Third Circuit ruled that the Court and the government does not dispute more than 145 days of non-excludable delay between Lall's arrest and his original indictment. The Court also agree with Lall's contention that a Speedy trial Act violation occurred with the respect to the additional charges made in the superseding indictment and the government does not argue to the contrary.

The Court went on to state that Lall did not move to dismiss these charges in the District Court.

In *Barker v. Wingo*, 407 U.S. at 531, the Supreme Court stated that when a criminal defendant is represented by counsel, and the defendant can demonstrate that he asserted his right to Speedy Trial by indentifying "a motion or some evidence of direct instruction to counsel to assert the right at the time when formal assertion would have some chance of success." The Defendant preserve his right. *Battis* 589 F.3d 680. (please see attached email and instructions)

The Barker factors is a follows:

1) The length of delay from his New Jersey arrest and being detained without bail on July 22nd, 2015 to his New jersey indictment on May of 2018. (3 1/2 years delay)

2) The reason for the delay was so that the government can gain a tactical advantage by moving the trial two weeks before it was schedule to begin on May 2017, from the District of Rochester New York to the District of New Jersey to avoid presenting Court ordered Brady materials to the defense and to avoid a Speedy Trial violation by failing to file continuances for over 364 days. The government also deleted and added new charges in the District of New Jersey to gain a tactical advantage.

3) The defendant did assert his rights to a Speedy Trial by instructing his defense attorneys months before trial to file numerous pre-trial motions including the Speedy Trial violation and the Pre-indictment delay motions. Please see attached for email confirming instructions.

4) The prejudice caused was due to the defendant being detained for over 2 1/2 years, taken to 7 different jails and placed on the strictest house arrest for over a year while awaiting trial. The defendant lost his business and his income as he was the sole bread winner for his family. His wife was a stay at home mom taking care of their three kids. Mr. Lall's ability to gather evidence to defend himself was curtailed. While detained, Mr. Lall lost contact with his witnesses who were willing to testify on his behalf and could not adequately prepare for his defense. One of his witness who travelled with his airplane and was willing to testify on his behalf, died while awaiting trial.

Because of Mr. Lall incarceration, he was unable to get the evidence showing the email confirmation and list of motions to file before his direct appeal was sent to the Third Circuit. This evidence would have made a difference in the Third Circuit decision

to remand for an evidentiary hearing rather than denying his appeal.

In United States v. Deonte Marshall, 669 F.3d 288, the Court vacated the defendant's conviction because he was denied his right under the Sixth Amendment to the effective assistance of pretrial counsel.

The Court went onto to state that "by raising the Speedy Trial issue would have at least preserved it for appeal and thus the defendant would have secured a dismissal of the indictment, later if not sooner."

Mr. Lall has demonstrated that he did give instructions to his defense attorneys to file numerous pre-trial motions which included the Speedy Trial violation and Pre-indictment delay motions.

Mr. Lall is asking the Court to reconsider and grant his Writ of Certiorari, or at a minimum, remand to the Third Circuit for a evidentiary hearing on the refusal of Mr. Lall's attorneys to follow his instructions to file his Speedy Trial violation and Pre-indictment delay motions, the Barker v. Wingo factors and ineffective assistance of counsel.

I Khamraj Lall certify that my petition for reconsideration or remand to the Third Circuit for an evidentiary hearing is presented in good faith and not for delay.

Thank you very much for your help in this matter

Sincerely

Khamraj Lall

