

No. 21-5125

ORIGINAL

Supreme Court, U.S.
FILED

JUL 07 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Reginald Lamont Thomas — PETITIONER
(Your Name)

vs.

Eastern District of California
(SACRAMENTO DIVISION) RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Ninth Circuit Court of Appeal (Southern Division)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Reginald Lamont Thomas
(Your Name)

651 I Street
(Address)

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

N/A
(Phone Number)

QUESTION(S) PRESENTED

1) If the congressional statute 18 U.S.C.S § 3174(c) states "if the chief judge of a district court concludes that a suspension of time is of great urgency, he may order the limits suspended for a period not to exceed thirty days and to apply to the judicial council for that circuit. Within (10) ten days of entry of such order, the chief judge shall apply to the judicial council of the circuit for a suspension pursuant to subsection (a)". "How can the judicial council for the Ninth Circuit grant/approve an application to suspend the time limits of 18 U.S.C.S § 316d from the Eastern District of California that was filed twenty-two days late?"

2) What are the Congressional and/or Statutory penalties for the Eastern District of California's late application dated April 8, 2020 from the initial 30 day suspension on March 17, 2020?

3) According to the previous question, does that render the Eastern District of California's application and general orders null and void?

4) What happens when a judicial suspension exceeds one year by weeks?

5) Why is the statute of 18 U.S.C.S § 3174(b) vague and not quoted in its entirety on the application dated April 8, 2020 (Appendix B)?

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: *Chief Judge Kimberly Mueller (Respondent)*

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OTHER

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; 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

Constitutional Provisions

5th Amendment to the United States Constitution = see Appx. F

6th Amendment to the United States Constitution = See Appx. I

Statutory Provisions

18 U.S.C.S § 3161(c)(1) = see Appendix. E

18 U.S.C.S § 3174 (A)(b)(e) = see Appendix. D

STATEMENT OF THE CASE

On March 17, 2020 Chief Judge Kimberly Mueller issued General Order 611 suspending civil and criminal trials in the Eastern District of California; made a general finding that the time limits under the Speedy Trial Act 18 U.S.C. § 3161 (c) (Appendix E), was excluded under 18 U.S.C. § 3161 (h)(7)(A) to May 1, 2020. 18 U.S.C. § 3174 (e) (Appendix D) clearly states, "If the chief judge of the district court concludes that the need for suspension of time limits in such district under this section is of great urgency, he may order the time limits suspended for a period not to exceed thirty days", this statement/statute alone is clear and unambiguous, and at this point the time between March 17, 2020 to May 1, 2020 is 16 days well over the 30 day mark prescribed by Congress. Which is General Order 611 void after 30 days. Within the time span between March 17, 2020 to March 28, 2020, Chief Judge Kimberly Mueller did not apply to the Ninth Circuit for a suspension of the time limits proscribed by 18 U.S.C. § 3174 (e) (Appendix D) which states, "Within ten days of entry (March 17, 2020) of such order, the chief judge shall apply to the judicial council of the circuit for a suspension pursuant to subsection (a)". Again this statement is clear and unambiguous. On March 18, 2020 again Judge Mueller issued General Order 612 which was an amended order to General Order 611, there is nothing in the statute of 18 U.S.C. § 3174 in its entirety that gives her executive power to amend General Order 611 as the COVID-19 pandemic evolves.

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STATEMENT OF THE CASE

Between the dates of March 17, 2020 to April 6, 2020, Chief Judge Kimberly Mueller amended General Order 611 three times without Ninth Circuit judicial council approval or even a timely application to the Ninth Circuit judicial council. On April 8, 2020 Chief Judge Kimberly Mueller finally filed an application (Appendix B) to the Ninth Circuit judicial council requesting to suspend the time limits of 18 U.S.C.S. 3161 (Appendix E) due to the COVID-19 pandemic. Be it as it may the Judicial Council for the Ninth Circuit approved the application on April 16, 2020 (956 F.3d 1175 (Appendix C)) allowed by 18 U.S.C.S. § 3174(b) which states, "If the judicial council of the circuit finds that no remedy for such congestion is reasonably available, such council may, upon application by the chief judge of a district grant a suspension of the limits in section 3161(c) [18 U.S.C.S. § 3161(c)] in such district for a period not to exceed one year for trial of cases for which indictments or information are filed during such one-year period". This statement and statute is clear and unambiguous. Therefore according to the application approval date of April 16, 2020 (Appendix C) the one year suspension ends on May 2, 2021 which is approximately 382 days apart, the standard calendar year is 365 day which makes the one year suspension exceed the Congressional standard by 17 days. The Eastern District of California not only suspended trials for cases for which indictments or information are filed during such one-year period, but for indictments and information filed before

STATEMENT OF THE CASE

the April 16th, 2020 judicial council approval, which creates a blanket suspension of every defendants 70 day congressional guaranteed speedy trial clock, and violates all defendants Constitutional 5th Amendment Rights (Appendix F) and 6th Amendment rights (Appendix G)" these are century old guarantee that the United States Constitution applies not only to the free but the incarcerated. On March 22, 2021 a writ of mandamus (Docket# 21-70683 (Appendix A)) was filed with the Ninth Circuit Court of Appeal. The writ of mandamus brought to the attention of the Ninth Circuit the plain-error in law and the direct effects the General Orders were having on the 6th Amendment and the Speedy Trial Act which are guaranteed constitutionally and congressionally especially the defendants in pre-trial incarceration in the Eastern District of California without trial dates in sight. The relief sought in the writ of mandamus was bail / pre-trial release and to rescind General Orders 617 and 618 to be rendered null and void for the late judicial application. On April 23, 2021 the Ninth Circuit denied the writ of mandamus (Appendix A), and "no further filings will be accepted in the closed case". Leaving no other choice to file a writ certiorari with the Supreme Court of the United States of America. In the words of the late Justice Scalia, "We have stated time and again that courts must presume that a legislature says what it means and means in a statute what it says there. When the words of a statute are unambiguous, then the first canon is also the last: Judicial Inquiry Complete

REASONS FOR GRANTING THE PETITION

After reading Supreme Court Rule 10(c) the compelling reasons why the Supreme Court should exercise discretionary jurisdiction is the United States Constitution protects our fundamental freedoms and liberties. One of the most important rights guaranteed by the Constitution is the Sixth Amendment right of the accused to a public and speedy trial. It protects against undue and oppressive incarceration before trial and it allows the accused to defend himself against the criminal charges before evidence becomes lost or destroyed and witnesses' memories fade. But the Sixth Amendment protects much more than just the rights of the accused. It also protects the rights of all of us. It gives each of us a voice in our justice system. And it holds the government accountable to the principles of the Constitution. Without jury trials, power is abused and liberty gives way to tyranny. Given the constitutional importance of a jury trial to our democracy, a court cannot deny an accused his right to a jury trial even if conducting one is difficult. This is true whether the United States is suffering through a national disaster, a terrorist attack, civil unrest, or the coronavirus pandemic that the country and the world are currently facing. Nowhere IN THE CONSTITUTION IS THERE AN EXCEPTION FOR TIMES OF EMERGENCY OR CRISIS. NOWHERE!!!

REASONS FOR GRANTING THE PETITION

The Ninth Circuit denial of the writ of mandamus (21-70683) may be erroneous is because the Ninth Circuit ruled that the issue at hand didn't require mandamus relief. But the writ of Mandamus clearly showed the Eastern District of California's application to the Ninth Circuit (Appendix B) was late, incorrect and inconsistent with the law or the facts.

The national importance of having the Supreme Court decide the question involved is to remind the lower courts that the Constitution for any reason should never waver, be suspended, put on hold, misinterpreted, or compromised on any level in the American judicial system. State should never interfere with religion but that was also evident during the COVID-19 pandemic (Roman Catholic Diocese of Brooklyn v Cuomo; Harvest Rock Church v Newson) which this very court had to intervene.

There are similar cases to mine and other defendants in the Eastern District of California. Others are in the Central District of California faced with the same Constitutional issues surrounding the pandemic and the Chief Judge Philip Gutierrez General Order 20-042, 20-08, 20-09 and 20-179. These General Orders effected cases such as U.S. v Juan Carlos Recinos, Case No. 2:19-cr-00724-CJC, DKT. 58 (Aug. 19, 2020); U.S. v Jeffrey Olsen, Case No. 8:17-cr-00076-CJC, DKT. 68 (Sept 3, 2020); U.S. v Ronald Bernard Ware, Case No. 8:20-cr-00110-CJC, DKT. 38 (Dec. 3, 2020) just to name a few.

REASONS FOR GRANTING THE PETITION

The way the lower court decision was erroneous in my case was because, I was denied a jury trial twice during the pandemic on September 25, 2020 and December 3, 2020 which was an error of law the 6th Amendment of the United States Constitution, and an error in statute 18 U.S.C. § 3174 (b) because I was indicted January 24, 2020 two months before General Order 617 and the one-year suspension on April 16, 2020.

Reason for granting the petition because Constitutionally it's the right thing to do.

And the relief I and all the criminal defendants in the Eastern District of California who indictment or information filed before General 611 on March 17, 2020 are asking is to vacate all General Orders after March 17, 2020.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Reginald Lamont Thomas

Date: June 14, 2021