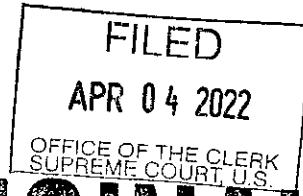


21-7962

No.

IN THE  
SUPREME COURT OF THE UNITED STATES



JIMMIE SPRATT,  
*Petitioner*

*Versus*

DARRELL VANNOY,  
*Respondent*

ORIGINAL

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ON PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT  
Case No. \_\_\_\_\_

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PETITION FOR WRIT OF CERTIORARI

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JIMMIE SPRATT  
DOC # 595399  
LOUISIANA, STATE PENITENTIARY  
ANGOLA, LOUISIANA 70712

QUESTION PRESENTED

The Fifth Circuit Court of Appeals decision that a certificate of appealability is not warranted is in irreconcilable conflict with this Court's decision in Lozada v. Deeds, 498 U.S. 430 (1991).

This is important because it deprives the Petitioner of a direct appeal from the district court.

LIST OF PARTIES

The names of all parties are contained in the caption of the case.

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### LIST OF THE PROCEEDINGS

Petitioner was incarcerated upon conviction in the Tennessee. While incarcerated in Tennessee for rape, in 2005 the State of Louisiana placed a detainer on the petitioner and lodged with the Tennessee Department of Corrections. Louisiana indicted petitioner November 9, 2010, of rape and aggravated kidnapping. Petitioner was tried and convicted of Louisianan charges on March 8, 2012. Petitioner appealed, but the convictions were affirmed on November 20, 2013. Petitioner sought writ of certiorari to the Louisiana Supreme Court and the same was denied on May 30, 2014. Petitioner later sought post-conviction relief in the Louisiana court. Ultimately, the State of Louisiana denied post-conviction application on March 18, 2019. See Appendix C-E. Petitioner then sought writ of habeas corpus in the Federal district court. The district court denied the petition for writ of habeas corpus on July 1, 2021. See Appendix B. Petitioner sought a certificate of appealability and was denied the same by the United States Court of Appeals for the Fifth Circuit on February 23, 2022. See Appendix A.

No. \_\_\_\_\_

IN THE  
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JIMMIE SPRATT,  
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*Respondent*

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ON PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT  
Case No. 21-30448

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**PETITION FOR WRIT OF CERTIORARI**

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**I. PETITION FOR WRIT OF CERTIORARI**

Jimmie Spratt petitions the Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in his case.

**II. OPINIONS BELOW**

On February 23, 2022, the Fifth Circuit's unpublished opinion is attached as Appendix A. On July 1, 2021, district court issued order dismissing petitioner petition for writ of habeas corpus. See attached Appendix B.

**III. JURISDICTION**

The Fifth Circuit denied Petitioner's appeal on February 23, 2022. See Appendix A. This petition is timely filed pursuant to Supreme Court Rule 13. This Court has jurisdiction under 28 U.S.C. § 1254(1).

#### **IV. CONSTITUTIONAL PROVISIONS INVOLVED**

##### **Amendment VI**

In all criminal prosecutions, *the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.*

#### **STATUTORY PROVISION INVOLVED**

##### **Title 28 U.S.C. Section 2253**

- (c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—
  - (A) the final order in a *habeas corpus* proceeding in which the detention complained of arises out of process issued by a State court; or
  - (B) the final order in a proceeding under section 2255 .
- (2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.
- (3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

#### **STATEMENT OF THE CASE**

Petitioner filed a petition for writ of *habeas corpus*, pursuant to Title 28 U.S.C.

Section 2254 in the Federal district court. The district court denied the petition for writ of habeas corpus on July 1, 2021. See Appendix B. Petitioner wishes to appeal, thus sought a certificate of appealability, but was denied the same by the United States Court of Appeals for the Fifth Circuit on February 23, 2022. See Appendix A. See also, Title 28 U.S.C. Section 2253(c). This petition follows.

**DIRECT CONCISE ARGUMENT AMPLIFYING REASONS FOR THE WRIT**

Petitioner argues that the Fifth Circuit Court of Appeals for the United States erroneously failed to grant a COA on the one issue that the petitioner fully exhausted through the Fifth Circuit in his application of COA.

Petitioner was convicted in Louisiana state court on March 8, 2012 for rape and aggravated kidnapping. Petitioner exhausted all of his available state court remedies to no avail. See attached Appendix C, Appendix D, and Appendix E. After exhausting state direct appeal and postconviction remedies, he filed a petition for a writ of habeas corpus in the United States District Court for the District for the Eastern District of Louisiana. Petitioner contended, among other things, that ineffective assistance of counsel had deprived him of the opportunity to have his indictment dismissed and/or conviction overturned on direct in failing to assert that his federal constitutional right to speedy trial had been violated, and he was prejudiced thereby. In state court the petitioner was never afforded an opportunity to prove his ineffective assistance counsel claim and his prejudice prong of his speedy trial claim.

Without holding a hearing on petitioner's claims, a federal magistrate recommended that the petition be dismissed. The District Court agreed and dismissed

the petition. The court acknowledged that there was pre-indictment delay (5 years between the detainer and the indictment), see attached Appendix B at numbered page 4, at check mark, that could amount to a violation of speedy trial, but that his delay does not count because it involved a detainer and ~~detainer does not trigger the 6<sup>th</sup> amendment right to a speedy trial~~. See Appendix B, at numbered pages 11 and 26, at check marks. The district court therefore held that the ineffective assistance of claim lacks merit because counsel was not ineffective in failing to move to quash the indictment for violation of the right to a speedy trial where “the Supreme Court clarified its doctrine in Marion and Lovasco to clearly hold that a detainer, like that in Spratt’s case, was not enough to trigger speedy trial...” See attached Appendix B, at numbered page 26 at check mark. The district court, and the Fifth Circuit, later denied petitioner a certificate of appealability to appeal the denial of habeas relief, see 28 U.S.C. § 2253, stating that petitioner had failed to demonstrate that reasonable jurists would debate the correctness of the district court’s procedural ruling. See Appendix A at page 1 and 2 at highlighted.<sup>1</sup> Petitioner filed the instant petition for a writ of certiorari, which he request the GVR (grant writ, vacate judgment of the Fifth Circuit and remand) for the COA to issue on the ineffective assistance of counsel claim as it relates to the right to speedy trial.

The district court rested its analysis on the premise that under United States v. Marion, 404 U.S. 307 (1971) and United States v. Lovasco, 431 U.S. 783 (1977), a detainer was not enough to trigger speedy trial right and that was presumably the basis

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<sup>1</sup> Therefore, the adjudication of the petitioner’s ineffective counsel claim, includes the adjudication of the procedural ruling. If petitioner were to prove ineffective counsel in this instance, petitioner would be demonstrating cause and prejudice elements of the procedural ruling.

for the Court of Appeals' decision to deny a COA. See again Appendix B, at numbered page 26 at highlight.

The petitioner argues, and this Court should find, that the ineffective counsel/procedural ruling is incorrect, that the issues are debatable among jurists of reason; and that a court could resolve the issues [in a different manner] where:

- (1) neither Marion nor Lovasco mentioned the term "detainer;"
- (2) that Smith v. Hooey, 393 U.S. 374 (1969), decided the question of what obligation is imposed upon the State by the sixth amendment right to speedy trial, when the person under the state criminal charge is serving a prison sentence, and
- (3) that Smith v. Hooey is the United States Supreme Court precedent is direct on point where it discussed the harms of the "detainer."

See Smith v. Hooey, *supra*, at 379. Certainly, it is arguable that the district court misapplied Marion and Lovasco where neither case mentioned the term "detainer" but the district court read the word "detainer" in the Marion and Lovasco cases.

This Court should believe the issue of whether a detainer under Smith v. Hooey triggers the sixth amendment right to speedy trial is debatable and could be resolved in a different manner than the one followed by the district court. Since Smith v. Hooey, *supra*, this Court held that the State denied the right to speedy trial in failing to bring the prisoner to trial who had a detainer lodged against him from another jurisdiction. The order of the Court of Appeals did not analyze Smith v. Hooey as reflected by the decision of the Court of Appeals. See Appendix A. Smith v. Hooey had been decided long before the Fifth Circuit issued its ruling.

This Court should further find the district court's, and court of appeals', decisions to be debatable among jurists of reason where:

- (1) The district court specifically found that a "detainer and arrest warrants" were lodged against the petitioner, see attached Appendix B, at numbered page 19, at highlight and check mark;

(2) A detainer and arrest warrant under Louisiana law constitutes actual restraints of the person, see 2019 Louisiana Laws Code of Criminal Procedure, Art. 201 and/or attached Appendix F and G at highlight;

(3) The Sixth Amendment text specifically guarantee that the “accused,” shall have speedy trial and effective assistance of counsel, thus arguably the petitioner had to be an “accused” in order to have a detainer and arrest warrants lodged against him.

In this additional light, the district court’s finding that petitioner had a detainer and arrest warrant, but no charge against him, is debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.<sup>2</sup>

#### CONCLUSION AND PRAYER FOR RELIEF

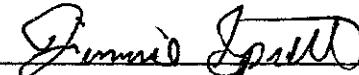
This Court should grant certiorari to consider whether, under Smith v. Hooey, supra, it is fair to treat a detainer and arrest as being inadequate and/or insufficient to trigger the Sixth Amendment right to a speedy trial. Such an approach, allows the government to withhold the charging instrument and just send to the prison a detainer and arrest warrant and the reviewing courts will say that the right to speedy trial has not been triggered, and thereby allowing the government to bar a prisoner from any judicial review of such claims. Here, leaving the Fifth Circuit’s ruling undisturbed will have the terrible consequence of allowing the government to file a detainer and arrest warrant and the trial can be delayed decades to no avail under the Sixth Amendment, while sweeping under the rug the charge or accusation that warranted and/or supported the detainer and arrest warrants and must proceed.

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<sup>2</sup> Notably, that it was this finding that resulted in a adverse finding that there was no ineffective assistance of counsel. The lower courts reasoned that counsel cannot be faulted for failing to motion to dismiss on speedy trial grounds where the detainer “is not enough to trigger speedy trial.” See attached Appendix B, at numbered page 26.

The Court should grant certiorari to review the Fifth Circuit's judgment in his case, or grant such other relief as justice requires.

Respectfully submitted,

  
\_\_\_\_\_  
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