
No. _____

In the
Supreme Court of the United States

JAMES KEVIN BALL, Petitioner

v.

UNITED STATES OF AMERICA, Respondent

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

Petition for Writ of Certiorari

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Question Presented

Perhaps desperate times call for desperate measures.

But as the desperate times end, so too must the measures, especially those that infringe on individual rights. During the COVID-19 pandemic, the Central District of California suspended jury trials for over a year, issuing General Orders finding that trials could not be safely held because of the risks associated with COVID-19. In April 2021, however, the Central District issued a General Order finding that conditions were such that trials could begin to resume as of June 2021. But the district court continued to delay trial in this case until September 2021 under the ends-of-justice provision at 18 U.S.C. § 3161(h)(7)(B)(i), citing COVID-19 safety concerns. The district court did so notwithstanding that petitioner James Kevin Ball was incarcerated and had been consistently demanding the Speedy Trial to which the law entitled him, and notwithstanding that the district court was presented with no evidence and made no findings about any

particular health risks arising from trying Ball's case, nor any other reason why his case should not be among the first to proceed after jury trials resumed in the Central District. The Ninth Circuit blessed that delay and lack of findings. The Questions Presented is thus:

Whether a district court may continue to rely on emergency circumstances to delay a trial under the ends-of-justice provision at 18 U.S.C. § 3161(h)(7)(B)(i), where a districtwide order has allowed jury trials to begin to resume, and where the district court receives no evidence and makes no findings as to why the defendant's trial cannot be among the first to be held.

Statement of Related Proceedings

- *United States v. James Kevin Ball*,
Case No. 2:21-cr-00094-VAP-1 (C.D. Cal.)
- *United States v. James Kevin Ball*,
Case No. 21-50306 (9th Cir.)

Table of Contents

	Page(s)
Opinions Below	1
Jurisdiction.....	2
Statutes Involved	2
Introduction.....	2
Statement of the Case	4
1. Arrest and indictment	4
2. Initial appearance in front of Judge Phillips	4
3. The government's ex parte continuance request	5
4. The district court's sua sponte competency examination order.....	5
5. The government's amended ex parte continuance request .	6
6. The defense's objection to competency proceedings and request for dismissal on Speedy Trial Act grounds	6
7. The district court's orders granting the government's request for a continuance, denying the defense motion to dismiss, and pushing ahead with competency proceedings	7
8. The district court found Ball competent, and he later entered a conditional plea.	9
9. The Ninth Circuit affirmed the conviction.	10

Reasons for Granting the Writ.....	12
The Ninth Circuit’s Approach to the Speedy Trial Act Rubberstamps	
Violations of the Act by Disregarding the Difference Between a	
General Finding That the Number of Cases that Can Go to Trial	
at Any One Time Is Limited, and Case-Specific Findings That a	
Particular Defendant’s Case Lacks Priority Among the Cases	
Waiting to Go Forward.....	12
1. The Speedy Trial Right and the Speedy Trial Act	12
2. The panel’s approach to the Speedy Trial Act leaves a	
reviewing court as a rubber stamp to a district court’s	
unsupported ends-of-justice findings.....	14
Conclusion	19
Appendix.....	20

Index to Appendix

Order and Memorandum Disposition Filed June 26, 2023 Ninth Cir. 21-50306, Docket No. 45.....	App. 1
Amended Order Continuing Trial Date and Findings Regarding Excludable Time Periods Pursuant to Speedy Trial Act Filed April 27, 2021 C.D. Cal. 2:21-cr-00094-VAP, Docket No. 33	App. 7
Order (1) Overruling Objection to Order Requiring Mental Examination and Setting Competency Hearing; and (2) Denying Motion to Dismiss as Moot Filed May 18, 2021 C.D. Cal. 2:21-cr-00094-VAP, Docket No. 42	App. 14
Judgment and Commitment Order Filed December 15, 2021 C.D. Cal. 2:21-cr-00094-VAP, Docket No. 88	App. 19
General Order No. 21-07 United States District Court for the Central District of California Filed April 15, 2021	App. 24
18 U.S.C. § 3161	App. 29
18 U.S.C. § 3164	App. 34

Table of Authorities

	Page(s)
Federal Cases	
<i>Bloate v. United States</i> , 559 U.S. 196 (2010)	13
<i>Ex parte Milligan</i> , 71 U.S. 2, 18 L. Ed. 281 (1866)	12, 13
<i>Klopfer v. State of N.C.</i> , 386 U.S. 213 (1967)	12
<i>Roman Cath. Diocese of Brooklyn v. Cuomo</i> , 141 S. Ct. 63 (2020)	13
<i>United States v. Ewell</i> , 383 U.S. 116 (1966)	13
<i>United States v. MacDonald</i> , 456 U.S. 1 (1982)	13
<i>United States v. Olsen</i> , 21 F.4th 1036 (9th Cir. 2022)	7, 9, 11, 18
<i>United States v. Torres</i> , 995 F.3d 695 (9th Cir. 2021)	14
<i>Zedner v. United States</i> , 547 U.S. 489 (2006)	14, 15, 16
Federal Statutes	
18 U.S.C. § 875.....	4, 10
18 U.S.C. § 2261.....	4
18 U.S.C. § 3161.....	<i>passim</i>
18 U.S.C. § 3162.....	13
18 U.S.C. § 3164.....	2, 11, 17
18 U.S.C. § 3231.....	2

18 U.S.C. § 4241.....	5
28 U.S.C. § 1254.....	2
28 U.S.C. § 1291.....	2

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JAMES KEVIN BALL, Petitioner

v.

UNITED STATES OF AMERICA, Respondent

Petition for Writ of Certiorari

James Kevin Ball petitions for a writ of certiorari to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit.

Opinions Below

The opinion of the Court of Appeals is unpublished and is included in the Appendix at App. 3-6.¹ The District Court's rulings were likewise unpublished and are included in the Appendix at App. 7-18.

¹ "App. xx" refers to a page in the attached Appendix. "xx-ER-xx" refers to a volume and a page in the appellant's excerpts of record electronically filed in the Ninth Circuit on June 6, 2022 (Docket No. 10). "AOB xx" refers to a page in the appellant's Opening Brief, electronically filed in the Ninth Circuit on June 6, 2022 (Docket No. 9).

Jurisdiction

The Ninth Circuit Court of Appeals entered final judgment on June 26, 2023. (App. 3.) This petition is filed within 90 days of the Ninth Circuit’s judgment.

Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The district court had jurisdiction pursuant to 18 U.S.C. § 3231, and the Ninth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291.

Statutes Involved

The relevant provisions of the Speedy Trial Act, 18 U.S.C. § 3161 and 18 U.S.C. § 3164, are reproduced in the Appendix at App. 29-34.

Introduction

The district court’s objectionable treatment of petitioner James Kevin Ball and his case began at his first appearance, when he interjected to complain—correctly—that the court and counsel were discussing trial dates beyond his 70-day Speedy Trial Act window. The district court termed that interjection an “outburst” and, rather than, for instance, calling a status conference or requesting input from Ball’s counsel, immediately and improperly determined that its extremely brief interaction with Ball constituted substantial evidence of incompetence to warrant competency proceedings. It then granted a five-month continuance, from April 2021 to

September 2021, over Ball’s objections. To justify the continuance, the district judge relied on the improperly initiated competency proceedings, as well as an unsupported finding that the ends of justice required a continuance because COVID-19 prevented the court from safely holding a trial prior to September 2021—notwithstanding that the District Court for the Central District of California as a whole was set to resume jury trials in June 2021.

The Ninth Circuit did not reach the competency issue, but blessed the district court’s ends-of-justice approach. It held that the district court’s approach was permissible because the district court had reasonably determined that COVID-19 safety protocols would limit the number of trials that could safely be held at any one time. But that just begs the question: if some trials could be safely held in June 2021 (or, for that matter, July or August 2021), why couldn’t Ball’s trial be one of them? The Ninth Circuit did not require the district court to answer that question. In doing so, it elided the difference between, on the one hand, the case-specific findings required by the Speedy Trial Act about why the ends of justice necessitate a delay, and, on the other hand, a general finding of court congestion that the Act says is insufficient to justify a continuance. Allowing the Ninth’s Circuit decision to stand will erode the Speedy Trial Act’s protections and upset the careful balance of individual rights and collective needs that it is meant to embody.

Statement of the Case

1. Arrest and indictment

Ball was arrested by federal authorities on February 17, 2021. (1-ER-187.) He had his initial appearance the same day and was ordered detained. (1-ER-186.)

On March 2, 2021, a federal grand jury returned a five-count indictment charging Ball with violations of 18 U.S.C. §§ 2261A(2)(B), 2261(b)(5) and 18 U.S.C. § 875(c). (1-ER-175-81.) The indictment alleged that Ball had sent threatening messages to a pair of victims on the other side of the country. (1-ER-175-81.)

2. Initial appearance in front of Judge Phillips

At his post-indictment arraignment on March 15, 2021, Ball's case was assigned to the Honorable Virginia A. Phillips, United States District Judge. (1-ER-174.) He appeared before Judge Phillips for the first time on April 19, 2021, via videoconference. (1-ER-165.) After being introduced to the court by counsel as "Mr. Ball," Ball told the court that he was "King James Kevin Ball," and "a descendant of King David I." (1-ER-165.) Following some brief technical difficulties, the court called the case a second time, at which point counsel introduced Ball as "Mr. James Ball, AKA King James," and Ball briefly explained that he had a coat of arms and was related to George Washington. (1-ER-166.)

Despite Ball's eccentric introduction, his other contributions to the hearing were pertinent to the issues at hand. Prior to the hearing, the government filed a status report requesting a trial date of June 16, 2021, and

noting that the defense had a Speedy Trial Act objection to that date. (1-ER-172-73.) At the hearing, Ball confirmed that he was acceding to appearing by videoconference, but stated clearly that he was not going to waive any time. (1-ER-166.) When the district court nonetheless informed the parties that she was continuing the case to at least June 16, Ball interjected—correctly—that the date was outside of his Speedy Trial Act calendar dates. (1-ER-167-68.) The court told him that he needed to allow his counsel to speak on his behalf, that counsel was going to file a Speedy Act motion, and that the court would grant or deny it. (1-ER-168.) Ball responded obscurely that to deny the motion would be a “levy war.” (1-ER-168.) The court then instructed counsel to discuss with Ball the impropriety of him speaking while being represented by counsel. (1-ER-168.) Ball did not speak again for the rest of the hearing. (1-ER-168-70.)

3. The government’s ex parte continuance request

Later the same day, the government filed an ex parte application seeking to move the trial date to June 16, 2021. (1-ER-146.) The application urged the district court to exclude the time from April 27, 2021, and June 16, 2021, under the Speedy Trial Act’s ends-of-justice provision, based on the pandemic, 18 U.S.C. § 3161(h)(7)(A). (1-ER-150; 1-ER-152-53.)

4. The district court’s sua sponte competency examination order

Two days later, on April 21, 2021, the district court sua sponte ordered that Ball be examined pursuant to 18 U.S.C. § 4241(a) to determine if he was competent to stand trial. (1-ER-142.) It cited Ball’s references to his coat of arms and “levy war,” and his attempts to speak for himself at the hearing as

indications of his possible incompetence. (1-ER-142.) The order gave the Bureau of Prisons 30 days to examine Ball, and ordered that it produce a report by June 7, 2021. (1-ER-142.) The court's order also noted that the delay caused by evaluating Ball's competency was excluded time under the Speedy Trial Act. (1-ER-142.)

5. The government's amended ex parte continuance request

Two days later, on April 23, 2021, the government filed an amended ex parte application to move the trial and find time excludable under the Speedy Trial Act, this time proposing a trial date of August 17, 2021. (1-ER-124.) The application noted Ball's opposition. (1-ER-124.) The amended application asked the district court to exclude the time between April 27, 2021, and August 17, 2021, because of the ends-of-justice provision, and also asked that the time between the entry of the competency evaluation order and the final competency determination be excluded from the Speedy Trial Act time limits under 18 U.S.C. § 3161(h)(1)(a). (1-ER-124; 1-ER-131-32; 1-ER-90.)

6. The defense's objection to competency proceedings and request for dismissal on Speedy Trial Act grounds

The defense then made a pair of related filings on April 26, 2021. First, it filed an objection to the court's competency evaluation order. (1-ER-106.) That objection was based in part on a declaration from Ball's counsel, who declared that she had had seven to nine conversations with Ball; had discussed with him the charges, the facts of the case, potential resolutions, and potential legal strategies and defenses; and that Ball "responded linearly" and "demonstrated an understanding of the charges against him, the mechanics of

the trial process, and the roles of the parties in the process.” (1-ER-111.) Counsel confirmed that she understood the standard for trial competence and had no doubts that Ball was competent to stand trial. (1-ER-111.) The objection noted, additionally, that Ball’s attempts to speak directly to the court at his initial appearance could be explained by the fact that in previous state court proceedings, he had represented himself *pro per*. (1-ER-109.)

At the same time, the defense filed a motion to dismiss the case for Speedy Trial Act violations. (1-ER-112.) That motion noted that absent the court’s mental competency evaluation order, the Speedy Trial Act required that Ball’s trial commence on or before April 27, 2021, and argued that any exclusion of time beyond that based on the COVID-19 pandemic was improper. (1-ER-116-19.) It argued that a continuance would not be consistent with the ends of justice factors laid out in *United States v. Olsen*, 21 F.4th 1036 (9th Cir. 2022), in part because Ball was detained pretrial, while the *Olsen* defendant had not been. (1-ER-118-19; *see also* 1-ER-77-78.)

7. *The district court’s orders granting the government’s request for a continuance, denying the defense motion to dismiss, and pushing ahead with competency proceedings*

On April 27, 2021, the day after the defense filed the motion to dismiss and its objection to the competency evaluation, the district court ordered the trial continued until September 14, 2021. (App. 7 et seq.) The district court pointed to General Orders from the Central District of California as a whole finding the COVID-19 was a public-health emergency and suspending jury trials. (App. 8-9.) It also noted that jury trials were set to resume on June 7, 2021, with rigorous safety protocols that would limit the number of jury trials

that could be held simultaneously. (App. 9-10.) With no further findings—including no findings about why the trial for Ball, who was incarcerated and had consistently refused to waive time under the Speedy Trial Act, could not have been among the first to proceed—the district court found that in light of the circumstances created by the pandemic, the ends-of-justice in a continuance outweighed the interests in a speedy trial. (App. 10-11.) It added that because of public health restrictions, the parties could not prepare for trial adequately within the Speedy Trial Act time limits. (App. 11.) It also noted its *sua sponte* competency evaluation order. (App. 11.) It ultimately found that the time period from April 27, 2021, to September 14, 2021, was excluded time under 18 U.S.C. §§ 3161(h)(1)(A), (h)(7)(A), (h)(7)(B)(i), and (h)(7)(B)(iv). (App. 12.)

On May 18, 2021, the district court issued an order overruling the objection to the competency evaluation and denying the motion to dismiss on Speedy Trial Act grounds as moot in light of the competency evaluation. (App. 14 et seq.) The district court acknowledged defense counsel’s declaration detailing her substantive interactions with Ball, but stated that defense counsel’s observations were not based on medical evidence and so were only one of many factors the court was considering. (App. 16-17.) Without acknowledging that its own impressions of Ball were limited to an eight-minute videoconference, it characterized Ball as having “displayed erratic behavior repeatedly and consistently during the pretrial conference,” and said that he “engaged in multiple unintelligible outbursts and attempted to communicate directly with the Court, even after the Court explained to him

that he should communicate through his attorney.” (App. 16.) The district court cited its long experience; stated that it did not order the evaluation lightly; and concluded that “there is insufficient evidence before it to allay the Court’s serious concerns about Defendant’s mental competency based on the erratic behavior displayed at the pretrial conference.” (App. 16-17.) It then found that the motion to dismiss was moot in light of its ruling on the competency evaluation, and noted that it believed that many of the defense arguments were rejected in *Olsen*. (App. 17-18.)

8. *The district court found Ball competent, and he later entered a conditional plea.*

After the district court’s ruling, the Bureau of Prisons twice failed to conduct the competency evaluation or produce a report on time. After the Bureau of Prisons missed the original report date of June 7, 2021, the district court gave it until July 26, 2021 to complete the evaluation and issue a report. (1-ER-69.) When Bureau of Prisons again failed to complete the report by the July date, the district court gave it until August 30, 2021. (1-ER-68.)

The Bureau of Prisons met that third deadline, and, on September 1, 2021, the district court held a status conference to discuss the report. (1-ER-53; 1-ER-67.) The report found that although Ball might have a delusional disorder, he was competent to stand trial, and understood the nature of the charges against him, the proceedings, the roles of the various participants, and was able to assist in his own defense. (1-ER-56.) The district court found Ball competent: in doing so it relied both on the report and on defense counsel’s representations about Ball’s competency that it had previously found unmoving. (1-ER-67; 1-ER-72-73.) In light of Ball’s counsel representations

that she would not be ready to go to trial on September 14, the district court set a trial date of September 28, 2021. (1-ER-59.)

On September 17, 2021, the parties filed a plea agreement in which Ball agreed to plead guilty to count 3 of the indictment, violating 18 U.S.C. § 875(c) by sending a person named G.J. a threatening message. (1-ER-38-39; 1-ER-42-43.) The plea was conditional, with Ball reserving the right to challenge on appeal the district court's order requiring a competency evaluation and its denial of the motion to dismiss. (1-ER-39-40.) On September 20, 2021, the district court accepted the plea. (1-ER-37.)

At sentencing, notwithstanding a guidelines range of 30 to 37 months, and the Probation Office's recommendation that Ball be given a 33-month sentence, the district court sentenced Ball to the statutory maximum of 60 months. (1-ER-17; 1-ER-30-31.)

9. The Ninth Circuit affirmed the conviction.

Ball appealed the conviction, and a panel of the Ninth Circuit affirmed in an unpublished decision.

Ball argued on appeal that the district court erred by placing him in competency proceedings, and that the District Court erred by denying his motion to dismiss for violations of the Speedy Trial Act. (App. 4, 6 n.1.) With regard to the competency proceedings, he demonstrated that such proceedings are only appropriate where there is “substantial evidence” that a defendant suffers from a mental disease that prevents him from understanding the proceedings and aiding counsel, and that here there was nothing like the

substantial evidence that is required. (AOB 15-24.) And with regard to the Speedy Trial Act and the ends-of-justice continuance based on COVID-19, Ball noted in particular that the Central District for the Central District of California had resumed jury trials as of June 2021; that as a detained defendant awaiting trial, under 18 U.S.C. § 3164(a)(2), he had priority in trial scheduling over other, non-detained defendants; and that neither the government nor the court had ventured any evidence or findings to suggest that that priority would not have accorded Ball a trial date well prior to September. (AOB 32-35.)

The Ninth Circuit panel's memorandum disposition did not reach the district court's improper imposition of competency proceedings. (App. 6 n.1.)

In its final version of the memorandum disposition, amended in response to Ball's petition for rehearing en banc, the panel held that there was no clear error because the "district court considered key factors identified in *Olsen*, including Ball's pretrial detention; his invocation of his right to a speedy trial; and the pandemic-related impediments to the district court's ability to safely conduct a trial, protect the health and safety of all trial participants, and implement rigorous safety protocols to further those objectives." (App. 5.) To Ball's showing that the District Court for the Central District of California was resuming jury trials in June, 2021, meaning that the district court could not

rely on findings in the general order alone as a reason to treat holding a trial as unsafe, the Ninth Circuit held that the district court had reasonably determined that health and safety protocols would limit the number of trials that could go forward simultaneously. (App. 5.) It did not, however, point to any consideration for why, if only so many trials could go forward at a time, Ball would not have priority to go prior to September.

Reasons for Granting the Writ

The Ninth Circuit’s Approach to the Speedy Trial Act Rubberstamps Violations of the Act by Disregarding the Difference Between a General Finding That the Number of Cases that Can Go to Trial at Any One Time Is Limited, and Case-Specific Findings That a Particular Defendant’s Case Lacks Priority Among the Cases Waiting to Go Forward.

1. The Speedy Trial Right and the Speedy Trial Act

An accused’s right to be duly and speedily tried is one of our nation’s basic guarantors of liberty. *See, e.g., Klopfer v. State of N.C.*, 386 U.S. 213, 226 (1967) (the speedy trial right “is one of the most basic rights preserved by our Constitution”); *Ex parte Milligan*, 71 U.S. 2, 118-19, 18 L. Ed. 281 (1866) (“it is the birthright of every American citizen when charged with crime, to be tried and punished according to law”). It protects against “undue and oppressive incarceration prior to trial,” as well as “shorten[ing] the disruption

of life caused by arrest and the presence of unresolved criminal charges.” *United States v. Ewell*, 383 U.S. 116, 120 (1966); *United States v. MacDonald*, 456 U.S. 1, 8 (1982). And as this Court has observed, for such fundamental rights to have meaning, they cannot be set aside in the face of difficult circumstances. *See, e.g., Milligan*, 71 U.S. at 121 (“[n]o doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any [constitutional] provisions can be suspended during any of the great exigencies of government”); *Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 68 (2020) (“even in a pandemic, the Constitution cannot be put away and forgotten”).

In order to protect defendants’ rights to be speedily tried, and to vindicate the public’s own interest in the swift administration of justice, the Speedy Trial Act, 18 U.S.C. § 3161 et seq., provides precise time limits within which a criminal trial must commence. *Bloate v. United States*, 559 U.S. 196, 198-99, 211 (2010). As relevant here, a defendant’s trial must begin within 70 days of indictment. 18 U.S.C. § 3161(c)(1). If the district court fails to commence trial within the Act’s time limits, the Act provides for mandatory dismissal, stating that if 70-day limit is exceeded, the indictment “shall be dismissed on motion of the defendant.” *Id.* at § 3162(a)(2).

The Act excludes from its 70-day limit certain periods of delay. 18 U.S.C. § 3161(h). These exclusions include periods of delay resulting from proceedings to determine a defendant’s mental competency, *id.* at § 3161(h)(1)(A), and a more general “ends-of-justice” provision, “which excludes [a]ny period of delay’ based on ‘findings that the ends of justice served’ by the

delay ‘outweigh the best interest of the public *and the defendant* in a speedy trial.’” *United States v. Torres*, 995 F.3d 695, 698-99 (9th Cir. 2021) (quoting 18 U.S.C. § 3161(h)(7)(A) (emphasis in *Torres*)). The Act “recognizes that criminal cases vary widely and that there are valid reasons for greater delay in particular cases” and provides a measure of “flexibility” to district courts, particularly through the ends-of-justice provisions. *Zedner v. United States*, 547 U.S. 489, 497-98 (2006). But recognizing “a danger that [ends-of-justice] continuances could get out of hand and subvert the Act’s detailed structure,” Congress cabined that flexibility with “procedural strictness” including “on-the-record findings” to ensure that the continuance reflects “case-specific needs.” *Id.* at 499, 509.

2. *The panel’s approach to the Speedy Trial Act leaves a reviewing court as a rubber stamp to a district court’s unsupported ends-of-justice findings.*

The district court delayed Ball’s trial on based on a finding that no trial could safely be held until September 14, 2021, notwithstanding the determination of the District Court for the Central District of California as a whole that jury trials could resume on June 7, 2021. (App. 10-11; App. 25.) It explained the additional three months of delay only by waving generally to “the need to limit the number of jury trials that can occur simultaneously in order to maintain social distancing and protect all trial participants.” (App. 10.) It did, however, not make any findings about how that general need applied to this case specifically. In particular, it did not explain why Ball, who

was incarcerated, was not entitled to one of the limited early trial slots. The Ninth Circuit’s disposition blessed the district court’s approach, holding that the district court’s invocation of the general language about protocols limiting the number of trials that could be conducted simultaneously was sufficient to justify delaying the trial for three months after jury trials resumed in the district. (App. 5.)

The Ninth Circuit’s approach, however, invites just the danger of ends-of-justice continuances getting “out of hand” that Congress was concerned about in crafting the Speedy Trial Act, and for which it required “on-the-record findings” to ensure that the continuance reflects “case-specific needs.” *Zedner*, 547 U.S. at 499, 509. In particular, by permitting a district court to point only to general concerns about court capacity in light of COVID safety measures, while forgoing any more specific analysis of how many other cases were waiting for those scarce resources or what priority Ball’s case would have vis-à-vis other cases, the Ninth Circuit allowed just the sort of “general congestion of the court’s calendar” extensions that 18 U.S.C. § 3161(h)(7)(C) prohibits.

The limitation on the number of jury trials that could be held simultaneously under COVID-19 protocols was not a “case-specific” factor: it was not a factor individualized to Ball’s case in any way. Rather, it was a

general condition that provided the context in which *every* case in the Central District was being scheduled for trial. In turn, a general observation that only so many trials could happen at once should not have been sufficient to meet the requirements of 18 U.S.C. § 3161(h)(7). That is because it is *always* the case that that only so many trials can occur at the same time. Whether in the aftermath of COVID-19 or in “normal” times, every district has a limited number of judges, courtrooms, support staff, and other resources. And § 3161(h)(7) specifically directs that such generalized concerns about court capacity cannot justify an ends-of-justice continuance: “No continuance . . . shall be granted because of general congestion of the court’s calendar.” 18 U.S.C. § 3161(h)(7)(C).

Instead, if the district court was going to rely on the general limitations on the number of jury trials that could be held simultaneously post-COVID, it was required make “on-the-record findings” about how the general limitation interacted with the facts of this case, so as to ensure that the continuance reflected “case-specific needs.” *See Zedner*, 547 U.S. at 509. It needed to consider, not just that there was some limitation on the number of trials that could occur, but how many trials could actually occur; how many people were waiting to be tried; and in particular, how many people with precedence over Ball were waiting for trial. That is particularly true because, as a “detained

person being held in detention solely because he [wa]s awaiting trial,” another provision of the Speedy Trial Act required that Ball be accorded priority in trial setting. 18 U.S.C. § 3164(a)(2).

The Ninth Circuit failed to require any such analysis. Instead, despite the lack of such analysis, it held that the district court had adequately “considered . . . the pandemic-related impediments to the district court’s ability to safely conduct a trial.” (App. 5.) But that could not be the case. As the panel acknowledged, the Central District as a whole had determined it was safe to resume jury trials. (App. 5.) While it was still permissible for a court to delay trial because of delays “attributable to the limitations caused by the [Central District’s] COVID-19 safety protocols,” (App. 26), a delay would not be attributable to COVID-19 protocols unless those protocols limited the quantity of trials that could be held to a number below Ball’s place in line.

Put otherwise, a limitation on the number of trials that can be held simultaneously still means that some trials may be held, which in turn means that there must be some process for determining *which* trials will be held. Section 3164 of the Speedy Trial Act establishes that process in part: detained defendants go before defendants who are out on bond. 18 U.S.C. § 3164(a)(2). Ball was detained, and so should have come ahead of every defendant who was not. Thus, in order to determine if the delay to September was “attributable”

to COVID safety protocols, the district court at least had to find that there were more individuals awaiting trial in detention than there were available trial spots. And to the extent that there were more detained defendants than trial spots, the district court would have had to go about determining where Ball fell in that line of detained defendants, and so whether he merited one of the earlier trial spots. But it did none of that.

Indeed, the Ninth Circuit’s disposition elides the difference between general and case-specific findings. While the Ninth Circuit asserts that determinations must be supported by “factual findings or evidence in the record,” *Olsen*, 21 F.4th at 1048, in this case it allowed the district court to proceed with no relevant factual finding at all about factors specific to the case. Rather the Ninth Circuit held that it was enough for the district court to have “reasonably determine[ed] . . . that ‘protocols to protect health and safety will limit the number of jury trials that can be conducted simultaneously.’” (App. 5.) But, again, that determination was only about a general condition limiting the number of trials districtwide, not about how that general condition interacted with Ball’s specific circumstances. By the same logic, any individual defendant’s trial could be delayed by any general circumstance that limited the availability of Court’s resources, with no analysis of why that defendant, as opposed to some other, should have to wait. That goes against

the Speedy Trial Act's priority for detained criminal defendants, and its prohibition on ends-of-justice delays based on general court congestion. If a defendant who wants a speedy trial is to be deprived of one when trials are being held, the Speedy Trial Act requires more than just waiving at general conditions of scarcity: there must be a reason, supported by facts, that that defendant's trial cannot go forward even while other defendants are getting their day in court.

Conclusion

For the foregoing reasons, James Kevin Ball respectfully requests that this Court grant his petition for a writ of certiorari.

Respectfully submitted,

CUAUHTEMOC ORTEGA
Federal Public Defender

DATED: September 25, 2023

By: 
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