

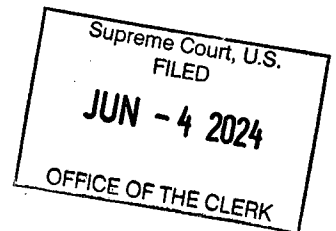
No. _____

23-7743

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



Jensen Ken Alexander — PETITIONER
(Your Name)

WYNWIE TESTAMARU as the Director of the U.S.N.I B.O.C
AND The Government of the U.S.N.I

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF THE U.S. VIRGIN ISLANDS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jensen Ken Alexander
(Your Name)

Wallens Ridge State Prison, P.O. Box 759
(Address)

BIG STONE GAP, VIRGINIA 24219
(City, State, Zip Code)

(276) 523-3310
(Phone Number)

QUESTION(S) PRESENTED

- ① Isn't the 4 Barker Factors LENGTH of the delay, Reason for the delay, Assertion of Rights to a Speedy Trial, and Prejudice by the delay? If an Accuse file a petition based on a Speedy Trial violation and if he/she has passed all Barker Factors Isn't the Accuse entitled to have all criminal charges against him/her dismissed with Prejudice?
- ② According to the Speedy Trial Rules the Government suppose to bring an Accuse to trial within 70 DAYS, when the Government took 838 DAYS to bring Jensen to trial from October 14, 2009 to January 30, 2012 isn't that a violation of Jensen 6th Amendment Rights to a Speedy Trial for the Long delay?
- ③ Second Barker Factor Reason for the delay, Jury selection was rescheduled 8 times before this case went to trial; counsels had pending motions, and waiting for DNA Results from the Lab. Jensen appointed Attorney at the time Judith Bourne failed to file a motion to dismiss based on the Speedy trial rights under the 6th Amendment of the US Constitution. Jensen cannot be held responsible for his Attorney errors and failures, shouldn't each Attorney be independently held responsible for their own actions? And when Jensen appointed Attorney representation was ineffective isn't that a violation of Jensen 6th Amendment Rights to an effective Counsel?
- ④ Third Barker Factor Assertion to an Accused Rights to a Speedy Trial, In Supreme court of the U.S.V.I stated in Carty v. People of the V.I that a defendant shows he has asserted his right to a Speedy Trial when he is represented by counsel and he can identify a motion of evidence he filed or his Attorney filed at a time when an Assertion of his Rights would render some chance of success. On October 5, 2011 Jensen Attorney at the time Judith Bourne filed a motion to dismiss, but it was not totally based on the Speedy Trial Right of the 6th Amendment. Because of this motion that was filed 10-5-2011 doesn't it mean that Jensen has passed this third Barker Factor to Assertion of his rights to a Speedy trial?
- ⑤ Fourth Barker Factor did the Accuse suffer any Prejudice by the delay? Jensen did suffer Prejudice by the long delay when the Government denied him the right to go home on bail without paying a \$10.00 a day fee for an ankle bracelet just a tactic by the Government to keep Jensen oppressively incarcerated prior to going to trial. Also Jensen suffered Prejudice when his former co-defendant Ketario Peetes took a Plea deal to testify against Jensen on the stand, (K.P.) took that Plea deal around March of 2011 approximately 17 months after Jensen was incarcerated. If Jensen did go to trial within 70 DAYS would his former co-defendant (K.P.) have been a Government main witness?
- ⑥ If Jensen did go to trial within 70 DAYS would the security Guard at the Ambers night club who did give a statement would he have come and testify on the stand to show Jurors (K.P.) story was not credible of what happened the night of 10-13-09? and would he have been on St. Thomas still within that 70 DAY time period? because on January 30, 2012 the security Guard was no where to be found on the Island of St. Thomas.

→ MORE ON THE NEXT SIDE

QUESTIONS

- ⑦ IF AN ATTORNEY FAILS to do OR file something for his/her client when the case is still pending, or during trial that would of change the whole outcome of the case. Isn't that A violation of the client 6th Amendment Rights to AN effective counsel? Because the Attorney Performance Fell below A Reasonable standard of Reasonableness?
- ⑧ After An Accused have filed A Petition about his/her Speedy trial Violation and he/she has Passed all four Barker Factors, isn't the only remedy for A Speedy trial violation is to have all charges Against the Accused dismissed with Prejudice?
- ⑨ After Reading this whole Petition Hasn't Jensen Passed all four Barker Factors?

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:

RELATED CASES

- ① STRUNK V. U.S 412 U.S 434, 37 L.Ed. 2d 56 (U.S ILL. 1973)
- ② U.S V. DELGADO-MIRANDA, 951 F.2d 1063, 1064 (9TH CIR. 1991)
- ③ U.S V. AMBROSE CASAS CRIMINAL CASE NO. 14-CR-136-CMA-09
- ④ U.S V. TAYLOR 487 U.S 326 101 L.Ed. 2d 297 (U.S WASH. 1988)
- ⑤ Government of the V.I V. Quetel, 18 V.I 145 (1982)

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	Decision of the Superior Court of the U.S. Virgin Islands
APPENDIX B	Decision of the Supreme Court of the U.S. Virgin Islands
APPENDIX C	
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- ① STRUNK V. U.S 412 U.S 434, 37 L.Ed. 2d 56 (U.S ILL. 1973)
- ② U.S V. DELGADO-MIRANDA, 951 F.2d 1063, 1064 (9th cir. 1991)
- ③ U.S V. AMBROSE CASAS criminal case NO. 14-CR-136-CMA-09
- ④ U.S V. TAYLOR, 487 U.S 376, 101 L.Ed. 2d 297 (U.S WASH. 1988)
- ⑤ Government of the V.I V. Quetel, 18 V.I 145 (1982)

STATUTES AND RULES

- ① The Speedy Trial Act of 1974 Requires that An indictment be dismissed if the Accused is not brought to trial within A 70-DAY time period. IF an Accused is not brought to trial within the time Limit required by the Laws of the Speedy trial Act, The indictment shall be dismissed with Prejudice on Motion by the Accused.
- ② The 6th Amendment of the U.S constitution states in all criminal proceedings the Accused shall have the right to A speedy and public trial by an impartial jury. Right to Speedy Trial Affords Affirmative Protection Against unjustified Postponement of Trial. All U.S Territories Guarantees the right to A Speedy trial to it's citizens, because all U.S Territories must abide by the Laws of the U.S constitution.
- ③ The 6th Amendment Speedy trial Guarantees to Protect Any Accused from undue Post Accusation delay. Statutes of Limitations are the primary safeguards Against Prejudicial PreAccusation delay.
- ④ IF An Accused has Filed A Petition Based on A Speedy trial violation and it has shown that he/she has Passed all 4 Barker factors, the Accused is entitled to have all criminal charges dismissed with Prejudice.

OTHER

STATUTES AND RULES CONTINUES

- ⑤ Jensen Trial Attorney at the time Judith Bourne Failed to File A motion to dismiss based on the Speedy Trial Right of the 6th Amendment of the U.S constitution by her failures and errors violated Jensen 6th Amendment Rights to an effective counsel, and the ONLY remedy to fix these errors and violations is to have all charges Against Jensen be dismissed with Prejudice.

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 _____ 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 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 B 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 Supreme Court of the U.S.V.I court appears at Appendix B 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 _____.

☐ 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 March 27, 2024
A copy of that decision appears at Appendix B.

☐ 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

- ① When the Government didn't bring Jensen to trial within 70 DAYS that error was Not harmless. It was A violation of Jensen 6th Amendment Rights to A Speedy Trial.
- ② IF the Government did bring Jensen to trial within 70 DAYS Jensen Former co-DEFENDANT (K.P.) would Not have been A Government main witness, This Delay to Go to trial Prejudice Jensen Defense in so many ways, it was A violation of his 6th Amendment Rights to A Speedy trial.
- ③ IF the Government did bring Jensen to trial within 70 DAYS it's A Great Possibility that the Security Guard at Ambers would of been in St. Thomas U.S.I. still to come and testify on Jensen behalf on the stand of what he witnessed at Ambers the Night of 10-13-09. This LONG Delay to Go to trial Prejudice Jensen Defense in USING the Security Guard at Ambers AS A witness, This testimony by the Security Guard would of shown the jurors that (K.P.) statements and testimony on the stand was Not credible, so this LONG 838 DAYS Delay violated Jensen 6th Amendment Rights to A Speedy Trial.
- ④ Under the Plain errors AND STANDARD A court of Appeals will reverse ONLY if A defendant could Prove ① that an error occurred ② that the error was clear or obvious ③ that the error Affected his substantial Rights AND ④ the error also seriously impaired the fairness integrity or Public Reputation of Judicial Proceedings.
- ⑤ Because of the errors AND Failures of Appointed counsel at the time Judith Bourne for failing to file the Proper Motion based specifically on the Speedy Trial Right of the 6th Amendment of the U.S constitution. Her performance fell below A Reasonable Standard of Reasonableness, which is A violation of Jensen 6th Amendment Rights To An effective counsel.

STATEMENT OF THE CASE

THE FACTS OF THIS CASE IS THAT JENSEN WAS INCARCERATED FROM OCTOBER 14, 2009 TO JANUARY 30, 2012 BEFORE HE ACTUALLY WENT TO TRIAL. THE GOVERNMENT FAILED TO BRING JENSEN TO TRIAL WITHIN A 70 DAY TIME PERIOD REQUIRED BY THE SPEEDY TRIAL RIGHTS OF THE 6TH AMENDMENT OF THE U.S. CONSTITUTION. DURING THIS 838 DAYS DELAY TO GO TO TRIAL JENSEN FORMER CO-DEFENDANT (K.P.) WOULD NOT HAVE BEEN A GOVERNMENT MAIN WITNESS TO TESTIFY AGAINST HIM, SO JENSEN SUFFERED PREJUDICE BY THIS LONG 838 DAYS DELAY TO GO TO TRIAL. ALSO THE SECURITY GUARD AT AMBERS "NIGHTCLUB" DID GIVE A STATEMENT OF WHAT HE WITNESSED AT AMBERS THE NIGHT OF 10-13-09. AFTER THE 838 DAYS LONG DELAY THE SECURITY GUARD AT AMBERS COULD NOT BE FOUND WHEN IT WAS TIME TO GO TO TRIAL. IF JENSEN DID GO TO TRIAL WITHIN 70 DAYS IT'S A GREAT POSSIBILITY THAT THE SECURITY GUARD AT AMBERS WOULD OF BEEN AVAILABLE TO TESTIFY ON THE STAND ON JENSEN BEHALF OF WHAT HAPPENED THE NIGHT OF 10-13-09 AT AMBERS. (K.P.) FABRICATED A STORY STATING THAT HE AND JENSEN NEVER WENT TO AMBERS THE NIGHT OF 10-13-2009, THIS TESTIMONY BY THE SECURITY GUARD WOULD OF SHOWN THE JURORS THAT (K.P.) STATEMENTS AND TESTIMONY WAS NOT CREDIBLE.

FOR THE LONG 838 DAYS DELAY TO GO TO TRIAL JENSEN SUFFERED PREJUDICE WHEN IT WAS TIME TO GO TO TRIAL ONE OF JENSEN WITNESSES COULD NOT BE FOUND. THIS LONG DELAY OF 838 DAYS WAS A VIOLATION OF JENSEN 6TH AMENDMENT RIGHTS TO A SPEEDY TRIAL. ALSO JENSEN SUFFERED INEFFECTIVE ASSISTANCE OF COUNSEL WHEN HIS TRIAL ATTORNEY JUDITH BOURNE FAILED TO FILE THE PROPER MOTION AT THE PROPER TIME, RESULTING IN HER PERFORMANCE AS JENSEN APPOINTED COUNSEL FELL BELOW A REASONABLE STANDARD OF REASONABLENESS, A VIOLATION OF JENSEN 6TH AMENDMENT RIGHTS TO HAVING AN EFFECTIVE COUNSEL. ALSO THE HESITATION OF THE GOVERNMENT TO LET JENSEN GO HOME ON BAIL WITHOUT PAYING A \$10.00 A DAY FEE FOR AN ANKLE BRACELET SHOWS THAT THE GOVERNMENT WANTED TO OPPRESSIVELY KEEP JENSEN INCARCERATED BEFORE GOING TO TRIAL, KNOWING THAT JENSEN MIGHT NOT HAVE BEEN ABLE TO PAY THE \$10.00 A DAY FEE. BASED ON THESE FACTS JENSEN HAVE PASSED ALL FOUR BARKER FACTORS AND THE ONLY REMEDY FOR A SPEEDY TRIAL RIGHTS VIOLATION UNDER THE 6TH AMENDMENT OF THE U.S. CONSTITUTION IS TO HAVE ALL CHARGES AGAINST THE ACCUSED BE DISMISSED WITH PREJUDICE.

REASONS FOR GRANTING THE PETITION

The Reasons for Granting this Petition is to send A strong message to the Government that unexcused delays will not be tolerated. The Speedy Trial Act However confines the exercise of that discretion more narrowly mandating dismissal of the indictment upon violation of precise time limits, and specifying criteria to consider in deciding whether to bar re-prosecution. Congress enacted the Speedy Trial Act because of its concern that U.S. Territory courts interpretations of the 6th Amendment Rights to A Speedy trial had drained the constitution Right of ANY real meaning. The judiciary committees in both the Senate and the house of Representatives recognize that unless violations of the Speedy Trial Rights of the 6th Amendment required dismissals with prejudice, the Speedy Trial Rights of the 6th Amendment would be unlikely to accomplish its purposes. IF the Prosecutor is free to commence prosecution again for the same offense after charges has been dismissed, then the right to A Speedy Trial is largely meaningless. ALL U.S Territories guarantees the right to A Speedy trial to its citizens, because all U.S Territories must abide by the Laws of the U.S constitution. The U.S Virgin Islands, Guam, and Puerto Rico are all U.S Territories and are entitled to abide by the Laws of the U.S constitution.

Jensen have proven that he has passed all 4 Barker factors

- ① Length of the delay - in this case Jensen had to wait 838 DAYS before he actually went to trial, that amount of time surpassed 70 DAYS well over 11 times, this long delay has violated Jensen Speedy Trial Rights to A Speedy Trial. Jensen have passed this 1st Barker Factor. Reason for the delay ② there was pending Lab results, motions, and trial was rescheduled 8 times. This burden of delay rests on counsels on both sides. Jensen have to be independently excluded as the one who caused the delays. Jensen cannot be held responsible for his attorney errors and failures, so based on these facts Jensen have passed this 2nd Barker Factor. ③ An Accuse Assertion to his Rights for A Speedy Trial - ON 10-5-2011 Jensen Appointed Attorney Filed A motion to dismiss, Although the motion was denied and it was completely not based on the Speedy Trial Rights of the 6th Amendment, this motion has been weighed in Jensen Favor to pass this 3rd Barker Factor. ④ Did the Accuse suffer prejudice by the delay - The answer to this is yes Jensen suffered prejudice when his co-defendant (K.P.) took A Plea deal 17 months after Jensen was incarcerated, IF the Government did go to trial within 70 DAYS (K.P.) would not have been A Government main witness. Also the Security Guard at Ambers Given A written statement, but by the time 838 DAYS later the security Guard could not be found to testify on Jensen behalf, therefore Jensen did suffer prejudice and by the Long Delay has passed this 4th Barker Factor. →

The Facts of this case is Jensen 6th Amendment Rights to A Speedy trial was Violated. It took the Government 838 DAYS to bring Jensen to trial and BY the time it's trial time Jensen former co-dependant (K.P) is A Government main witness to testify Against Jensen. Also at trial the Security Guard at Ambers could not be Found. The LONG 838 DAYS Delay Prejudice Jensen Defense in many ways, because if the Government did bring Jensen to trial within 70 DAYS (K.P) would not have been A Government main witness. Also if Jensen did go to trial within 70 DAYS it's most likely the Security Guard who worked at Ambers the night of 10-13-09 would of still been in the U.S.V.I Territory to testify on the stand in Jensen Defense of what happened the night of 10-13-09. It is the Government Responsibility to bring An Accuse to trial in A reasonable amount of time, with REGARDS to the Speedy trial Rights the common time limit is 70 DAYS. Jensen Also had an Appointed Attorney that Failed to file the Proper motion at the Proper time based on the Speedy trial rights under the 6th Amendment of the U.S Constitution. Based on these Facts Jensen 6th Amendment Rights to A Speedy trial was violated, IN this Petition Jensen have Proven he have Passed all four Barker Factors.

CONCLUSION

Jensen 6th Amendment Rights to An effective counsel was Violated, based on these Facts Jensen hope that this Court will rule in Jensen Favor and Grant this Petition and have all charges Against Jensen be dismissed with Prejudice.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jensen Ken Alexander

Date: June 3RD 2024