No. _____

IN THE SUPREME COURT OF THE UNITED STATES

PHILIP JAMES LAYFIELD,

PETITIONER,

vs.

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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Appointed Under the Criminal Justice Act of 1964

QUESTION PRESENTED FOR REVIEW

Whether the Speedy Trial Act provides a remedy for a custodial defendant arrested out-of-district and ordered removed, but whose transportation back to the charging district for arraignment is delayed for more than the 10-day period deemed reasonable under 18 U.S.C. § 3161(h)(1)(F), thereby creating a violation of the 70-day trial clock.

STATEMENT OF RELATED PROCEEDINGS

The proceeding identified below are the directly related to the above-captioned case in this Court.

- *United States v. Philip Layfield*, No. 18-CR-124-MWF, U.S. District Court for the Central District of California. Judgment entered March 8, 2022 (amended June 9, 2022 as to restitution). Petition for rehearing *en banc* denied April 15, 2024.
- *United States v. Philip Layfield*, No. 22-50047, U.S. Court of Appeals for the Ninth Circuit. Published Opinion entered March 7, 2024.
- *United States v. Philip Layfield*, No. 22-50047, U.S. Court of Appeals for the Ninth Circuit. Memorandum Opinion entered March 7, 2024.

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The Ninth Circuit's opinion is reported at *United States v. Layfield*, 96 F.4th 1095 (9th Cir. 2024). *See* Appendix A. Other claims not relevant to this petition were decided in an unpublished memorandum. *See* Appendix D.

JURISDICTION

On March 7, 2024, the Court of Appeals entered its decision affirming the conviction and sentence of the petitioner for 19 counts of wire fraud in violation of 18 U.S.C. § 1343, one count of mail fraud in violation of 18 U.S.C. § 1341, one count of attempt to evade and defeat tax in violation of 26 U.S.C. § 7201, one count of willful failure to collect or pay over tax in violation of 26 U.S.C. § 7202, and one count of misdemeanor failure to file tax return in violation of 26 U.S.C. § 7203. The petition for rehearing *en banc* was denied on April 15, 2024. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS

The text of the Speedy Trial Act found at 18 U.S.C. § 3161 is set out verbatim in Appendix E.

INTRODUCTION

The Speedy Trial Act ("STA" or "the Act") requires that courts exclude certain periods of delay in computing the 30-day time-frame within which an information or an indictment must be filed, or the 70-day clock within which the trial must start. *See* 18 U.S.C. § 3161(h) (listing eight excludable periods of delay). One of these periods is "delay resulting from transportation of any defendant from another

district, or to and from places of examination or hospitalization, except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable." 18 U.S.C. § 3161(h)(1)(F).

In *Bloate v. United States*, this Court held that the Speedy Trial Act must be read in a manner that gives effect to all its provisions. *See* 559 U.S. 196, 209 (2010). Here, the Ninth Circuit concluded that the 70-day clock is not tolled pursuant to § 3161(h)(1)(F) for a person who is arrested out-of-district and ordered removed, but whose transportation back to the charging district for arraignment is delayed by more than ten days. In so doing, the appellate court rendered superfluous a critical clause from the transportation provision, measured "from the date *an order of removal* … and the defendant's arrival at the destination." 18 U.S.C. § 3161(h)(1)(F) (emphasis added). At the time of the enactment of the Speedy Trial Act, a removal proceeding occurred when a defendant was arrested in a different district from the one in which the case was charged. *See* Fed. R. Crim. P. 40 (1944 to 2002).

This troubling result merits review. The issue goes to the core Sixth Amendment right that is protected by the Speedy Trial Act: a prisoner who remains in custodial limbo without being set for trial. *See Hearings Before The Committee on the Judiciary*, United States Senate, on S. 961 and S. 1028 to Amend the Speedy Trial Act of 1974 (May 2 and 10, 1979) at 110 ("The Speedy Trial Act of 1974 represented an attempt by Congress to fulfill the promise of the Sixth Amendment …. For one presumed to be innocent, yet incarcerated while awaiting trial, the

importance of this guarantee is obvious"). This Court should grant *certiorari* to address this important federal question decided by the Ninth Circuit in a way that conflicts with this Court's decision in *Bloate*.

STATEMENT OF THE CASE

A. District Court Proceedings

On February 23, 2018, a complaint was filed in the Central District of California charging Mr. Layfield with one count of mail fraud in violation of 18 U.S.C. § 1341. 5-ER-1073.[1] A warrant issued for his arrest, and the government filed a Notice of Request for Detention. *Id*.

On February 24, 2018, Mr. Layfield, was arrested at the Newark Liberty International Airport in Newark, New Jersey. Pursuant to Fed. R. Crim. P. 5(c)(2), he appeared before Mag. Judge Steven C. Mannion in the District of New Jersey on February 26, 2018. 5-ER-1053. He waived his right to identity and preliminary hearings pursuant to Fed. R. Crim. P. 5 and 5.1. 5-ER-1051-72. At a hearing on March 2, 2018, he was ordered detained and remanded to the United States Marshal pending transfer to the Central District of California. 5-ER-1019-50.

On March 9, 2018, a grand jury in the Central District of California returned an indictment charging him with the same mail fraud count, as well as two counts of money laundering in violation of 18 U.S.C. § 1956(a)(1)(A)(i); and forfeiture

[1] "ER" refers to the Excerpts of Record, preceded by the volume number and followed by the page number.

allegations pursuant to 18 U.S.C. §§ 982(a)(7), 981(a)(1)(C), and 28 U.S.C. § 2461(c). 4-ER-1005; 4-ER-996-97.

Mr. Layfield made his initial appearance in the Central District of California on March 23, 2018, where the detention order from the District of New Jersey was reaffirmed. Trial was set for May 15, 2018.

On April 9, 2018, at a status conference before the district court, the trial was continued to May 29, 2018. 1-ER-281. Mr. Layfield reiterated his intention not to waive his Speedy Trial rights. 4-ER-989-1005.

On May 17, 2018, at a status conference before the district court, Mr. Layfield refused to sign a stipulation to continue trial to August 14, 2018, arguing that the time within which to bring him to trial had already lapsed. 17-ER-3721-22. The court noted that Mr. Layfield had preserved his objection. 17-ER-3722.

The First Superseding Indictment, filed November 15, 2018, charged the same mail fraud count but dropped the money laundering counts and added twenty-two counts of wire fraud in violation of 18 U.S.C. § 1341, two aggravated identity theft counts in violation of 18 U.S.C. § 1028A(a)(1), and three tax counts: attempted income tax evasion in violation of 26 U.S.C. § 7201, willful failure to collect or pay over tax in violation of 26 U.S.C. § 7202, and misdemeanor failure to timely file a tax return in violation of 26 U.S.C. § 7203. The government moved to dismiss the aggravated identity theft charges before trial, and the district court granted the motion.

On March 29, 2021, Mr. Layfield filed a motion to dismiss the indictment for violation of the Speedy Trial Act which the government opposed. 3-ER-752, 3-ER-711.

On April 26, 2021, the district court denied the defense motion. 1-ER-161; 1-ER-166-171. The court relied on 18 U.S.C. § 3161(c)(1)'s provision that the 70-day clock starts ticking from one of two dates: either the date the information or indictment is filed and made public, *or* the date of appearance "before a judicial officer of the court in which such charge is pending" -- whichever is later. *See* 18 U.S.C. § 3161(c)(1); 1-ER-166-171. The indictment was filed on March 9, 2018. Mr. Layfield made his first appearance in the CDCA on March 23, 2018, and the court calculated that the 70-day clock started running on the latter date, resulting in a maximum trial date of June 1, 2018. It mattered not how long it took Mr. Layfield to be transferred from New Jersey, because the triggering event (appearance in the charging district) occurred (and would always occur) *after* any such delay. The district court found that Ninth Circuit law supported a finding that the STA was not violated. *See*, *e.g.*, *United States v. Palomba*, 31 F.3d 1456, 1462 (9th Cir. 1994) (rejecting argument that STA clock began before arraignment in charging district); *United States v. Wilson,* 720 F.2d 608 (9th Cir. 1983) (same).

Such a reading of the statute meant there was a hole in the STA – in theory, a person might spend years waiting to be transported to the charging district with no remedy under the Act. 1-ER-171. More important, it also meant that Section (h)(1)(F) effectively would be written out of the Act with regard to the 70-day trial

clock. That section, part of the Act's list of periods of time that must automatically be subtracted from the 70-day clock, includes transportation delay from another district except that anything over 10 days from the order of transportation or removal from the arresting district is presumed unreasonable. 18 U.S.C. § 3161(h)(1)(F). While § (h)(1)(F) includes transportation to hospitals or competency evaluation sites, it clearly addresses transportation of a person who has been arrested out-of-district and ordered "removed" to the charging district, a term which refers to the procedure of bringing an out-of-district defendant back to the charging district. If the STA's triggering event were arraignment in the charging district, this tolling provision would be superfluous.

Mr. Layfield proceeded to trial on August 10, 2021. On August 26, 2021, the jury returned guilty verdicts on all counts. On February 17, 2022, the district court sentenced Mr. Layfield to 144 months custody and, on May 18, 2022, ordered him to pay $7,650,127.32 in restitution.

B. The Appellate Case

Mr. Layfield appealed the district court's denial of his motion to dismiss pursuant to the Speedy Trial Act. He argued that the cases on which the district court relied – *Palomba* and *Wilson* – were distinguishable because the defendants in those cases had been released on bond. *See United States v. Hernandez*, 863 F.2d 239, 241-43 (2d Cir. 1988) (in context of STA arrest-to-indictment clock: "… the inclusion of a ten-day cap for the transportation of such defendants, without a corresponding limitation where defendants are released and permitted to travel on

their own, reflects an obvious concern with prolonged delays in the transportation of incarcerated defendants who are under the government's control and who are being deprived of their liberty"). For custodial defendants like Mr. Layfield, the STA clock is triggered by arraignment in the arresting district or by the filing of the indictment, whichever is later.

A panel of the Ninth Circuit affirmed. The panel agreed with the district court that under § 3161(c)(1), "only two events could trigger Layfield's 70-day speedy trial clock: (1) the March 9, 2018 public filing of the indictment or (2) his March 23, 2018 first appearance before a judge in the CDCA." 96 F.4th at 1097. Because the CDCA appearance was the latter date, it triggered the 70-day clock. *Id*. The plain reading of 3161(c)(1) dictated that the twenty-one-day delay between his detention in New Jersey and his first appearance in the CDCA was immaterial to the Speedy Trial Act analysis." *Id*. The panel rejected Mr. Layfield's argument that this interpretation cut § 3161(h)(1)(F) out of the criminal code because it "readily applies when a prisoner, after § 3161(c)(1) is triggered, is transferred between districts for separate trial proceedings." *Id*. The panel found that a defendant who waits months or even years awaiting transport to the charging district has the option of challenging pretrial delay pursuant to the procedure outlined in *Barker v. Wingo*, 407 U.S. 514, 530 (1972). *Id*. at 1099.

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REASONS FOR GRANTING THE PETITION

The Sixth Amendment provides that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury." U.S. Const. amend. VI. The Speedy Trial Act ("STA" or "the Act") was enacted to implement the Sixth Amendment right. *See Furlow v. United States*, 644 F.2d 764, 768-69 (9th Cir. 1981) (STA is the Sixth Amendment's "implementation"). Title 18 U.S.C. § 3161(c)(1) provides:

> In any case in which a plea of not guilty is entered, the trial of the defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

Id.

The Act also provides for "period[s] of delay resulting from other proceedings concerning the defendant" that are excluded automatically in calculating the seventy days. *See* § 3161(h)(1). These include:

> (1)(E) delay resulting from any proceeding relating to the transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure;
>
> (1)(F) delay resulting from transportation of any defendant from another district … *except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable.*

18 U.S.C. § 3161(h)(1)(E) and (F) (emphasis added). The Act additionally contains a catchall category which permits exclusion of time where there is a judicial finding "that the ends of justice served by taking such action outweigh the best interest of

the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A) (the "ends of justice exception").

In 2010, this Court held that the Speedy Trial Act must be read in a manner that gives effect to all its provisions. *See Bloate*, 559 U.S. at 209. In *Bloate*, this Court considered a different § 3161(h)(1) STA automatic tolling provision for "delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion." *See* 559 U.S. at 204-205, citing § 3161(h)(1)(D). The Eighth Circuit had held that this provision included time to *prepare* pretrial motions, *see id*. at 199 (emphasis included), a conclusion that this Court rejected because it would render the phrase "from the filing of the motion" a nullity. *See id*. at 206 ("such a reading would violate settled principles of statutory construction because it would ignore the structure and grammar of subsection (h)(1), and in so doing render even the clearest of the subparagraphs indeterminate and virtually superfluous"); *Duncan v. Walker*, 533 U.S. 167 (2001) ("[A] statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant"). Circumstances not covered by (h)(1)'s automatic exclusions would have to be specifically considered under (h)(7)'s "ends of justice" provision which requires the judge to make specific findings. *Id*. at 210.

This case concerns the application of 18 U.S.C. §§ 3161(h)(1)(E) and (F) of the STA to people who are arrested outside of the charging district. Section 3161(h)(1)(E) and (F) refer to "removal" of a defendant from another district. Today,

the term "removal" is most commonly heard in the immigration context, but when these tolling provisions were added to the Speedy Trial Act as part of the 1979 amendments to the statute, the term was commonly used to describe what would happen, pursuant to the then-in-effect version of Fed. R. Crim. P. 40, when a defendant was arrested in a district other than the one in which he was charged, his identity was confirmed, and he was held to answer in the charging district. *See, e.g., United States v. Jaitly*, 2009 WL 1675086 at n.7 (E.D. Pa. June 15, 2009) ("Prior to its amendment in 2002, Rule 40 applied generally to 'removal' proceedings, i.e. appearances in one district on warrants from other districts"); Wright's Federal Practice and Procedure: Criminal (Wright & Miller) § 653 ("Rule 40 was originally adopted in 1944 to address the process of moving a person arrested in a remote district back to the district where the trial would be held. This process was generally referred to as 'removal' proceedings"); *Hearings Before The Committee on the Judiciary*, United States Senate, on S. 961 and S. 1028 to Amend the Speedy Trial Act of 1974 (May 2 and 10, 1979) at 292 ("As is obvious, a person may be arrested in a distant district and be subject to removal procedures as prescribed in Rule 40"). In 2002, "as part of a general restyling of the Criminal Rules to make them more easily understood," procedures governed by Rule 40 were "largely

relocated" to Rule 5. *See* Fed. R. Crim. P. 40 Advisory Committee Notes, 2002 amends.[2] The term "removal" was dropped from the Rules. Wright & Miller, *id.*[3]

The plain language of the statute requires that for custodial defendants arrested out-of-district, the STA's 70-day clock is triggered by either arraignment in the arresting district or the filing date of the indictment, whichever is later. *See*, *e.g.*, *United States v. Thompson*, 2007 WL 1222573 (M.D. Fla. Apr. 24, 2007) (holding that STA began from date of magistrate judge order of removal in district of arrest because "[t]o hold otherwise would render the relevant tolling provision, § 3161(h)(1)(H)[4] largely useless in situations such as this one, where the Order of Removal of Defendant was either ignored or forgotten about.").[5]

As this Court clearly states, all provisions of the STA must be given effect. Statutory interpretation starts with the language of the statute itself. *See, e.g.,*

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[2] Fed. R. Crim. P. 5 provides that a defendant arrested outside the charging district be brought before the nearest magistrate for arraignment. Fed. R. Crim. P. 5(c)(2). The magistrate judge must, *inter alia*, "transfer the defendant to the district where the offense was allegedly committed if: (i) the government produces the warrant, a certified copy of the warrant, or a reliable electronic form of either; and (ii) the judge finds that the defendant is the same person named in the indictment, information, or warrant." Fed. R. Crim. P. 5(c)(3)(D).

[3] Rule 40 currently covers warrants issued in another district for failure to appear or violation of other conditions of release. *See* Fed. R. Crim. P. 40.

[4] The (h)(1) exclusions were renumbered when the statute was amended in 2008. *See* Pub. L. No. 110-406 (2008). Prior to 2008, § 3161(h)(1)(F) was labeled as (h)(1)(H). *Id.*

[5] This is consistent with the position the United States Attorney's Office for the Southern District of New York took in *United States v. Ghislaine Maxwell*, Case No. 20-CR-330. *See* ECF 5 at 1-2 (requesting exclusion of time between the defendant's arrest on July 2, 2020, in the District of New Hampshire, and the proposed arraignment in New York, noting the 10 day automatic exclusion of time pursuant to 3161(h)(1)(F)).

Harris Rr. & Sav. Bank v. Salomon Smith Barney, Inc., 530 U.S. 238, 254 (2000). Section (c)(1) must be read along with (h)(1)(F) so that neither provision is superfluous. *See Bloate*, *supra*. Section (c)(1) comes first in the statute, and it provides that the STA's 70-day clock starts with either the indictment/information or the first appearance before a judicial officer, whichever is later. The triggering appearance can't be just any judicial officer, however – it must be "a judicial officer of the court in which such charge is pending." This qualifying language serves to prevent the Act from being triggered by, for example, an appearance before a state court judge where the defendant is charged with driving under the influence, or a federal judge handling a civil matter the individual is litigating. The language indicates the precipitating event is an appearance before a judicial officer who is handling these particular charges, and the use of "*a* judicial officer" (emphasis added) as opposed to "*the* judicial officer" indicates there may be more than one who so qualifies. Notably, this does not exclude a judicial officer of the court handling an out-of-district charge; the charge is pending in front of that judicial officer as well.

Sections (h)(1)(E) and (F) come later, providing for tolling of the clock for time "relating to transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure,"[6] as well as delay from transportation after the removal order issues. These two subsections – (E) and (F) – are more specific than (c)(1); they address the situation of not just any defendant,

[6] Section (h)(1)(F)'s reference to the "Rules" of Criminal Procedure without stating which provisions are implicated suggests a broad reach which could include Rule 5, Rule 20, or Rule 40.

but one who has been arrested outside the prosecuting district. Under canons of statutory construction, "[a] specific provision controls over one of more general application." *Gozlon-Peretz v. United States*, 498 U.S. 395, 407 (1991). "General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment." *See Bloate* , 559 U.S. at 207-208, citing *D. Ginsberg & Sons, Inc. v. Popkin*, 285 U.S. 204, 208 (1932).

Critically, for either of these tolling provisions to have meaning, the STA clock has to have started ticking *before* transportation or removal. If the clock does not start until arrival in the charging district, there is no reason to toll it prior to arrival. Thus, the plain language of these provisions compels that, at least for an out-of-district arrest, the clock starts earlier. Subsection (E)'s tolling of "delay resulting from any proceeding relating to .. the removal of any defendant from another district" requires that the removal proceedings themselves are off-the-clock. And subsection (F) seems to apply exclusively to incarcerated defendants who must be transported. *See United States v. Hernandez*, 863 F.2d 239, 241-43 (2d Cir. 1988) (in context of STA arrest-to-indictment clock: "… the inclusion of a ten-day cap for the transportation of such defendants, without a corresponding limitation where defendants are released and permitted to travel on their own, reflects an obvious concern with prolonged delays in the transportation of incarcerated defendants who are under the government's control and who are being deprived of their liberty").[7]

[7] In *Hernandez*, the Second Circuit noted that the language of the provision now numbered (h)(1)(E) which tolls for delay from "transfer of a case" originally was

Putting all of these provisions together, (c)(1) provides that arraignment is a critical date, while (h)(1)(E) provides for exclusion of the Rule 5 proceedings. The key event in (h)(1)(F) is the date of the order of removal; the clock starts running again at this point. And here, the statute is clear – only ten days after the order of removal issues are automatically excluded for transportation; to exclude more, the government must show the delay was reasonable. *See*, *e.g.*, *United States v. Antoine,* 906 F.2d 1379, 1381 (9th Cir. 1990) (defendant's transport from mental competency examination to the district in which the case was pending took more than ten days, but court excluded only the ten days presumed reasonable under the statute); *United States v. Taylor*, 821 F.2d 1377, 1384 (9th Cir. 1987) (Marshals Service took 14 days to transport a fugitive defendant because it wanted to take a large group of prisoners at once, but only ten days were excludable from the 70-day clock), reversed on other grounds by *United States v. Taylor*, 108 S. Ct. 2413 (1988); *United States v. Tinklenberg*, 579 F.3d 589, 596 (6th Cir. 2009) (delay over ten days "is presumptively unreasonable, and in the absence of rebutting evidence to explain the additional delay, this extra time is not excludable"), affirmed on other grounds by *United States v. Tinklenberg*, 131 S. Ct. 2007 (2011).

The Ninth Circuit rejected Mr. Layfield's argument, finding that the transportation subsection would still apply to a prisoner transferred between districts for separate trial proceedings. 96 F.4th at 1098. But the panel ignored the

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proposed to address the situation where a person agreed to a Rule 20 disposition but later decided not to plead guilty and return for arraignment and trial in the indicting district. 863 F.2d at 241.

critical language of the subsection – "an order of removal" – replacing it with ellipses. *See id.*, quoting the statute as "delay resulting from transportation of any defendant from another district … in excess of ten days … shall be presumed to be unreasonable." Without the "order of removal" language, the statute might only refer to prisoner transfer for separate trial proceedings, but with it, must include the out-of-district arrest situation.

The legislative history of § 3161(h)(1)(F) further supports Mr. Layfield's position. In adding the transportation tolling provision, Congress was concerned with transportation delays after a defendant arrested out-of-district was ordered to return to the charging district. Section 3161(h)(1)(F) was added to the STA as part of the 1979 Amendments to the Act. *See* Pub. L. No. 96-43, §§ 2 to 5, Aug. 2, 1979, 93 Stat. 327, 328. The 1979 Congressional Record indicates the worry about delays in transportation after an out-of-district defendant was ordered removed to the charging district:

> Prompt Removal:
> (a) After the defendant's arrest in another district on a complaint, indictment or information from this district, the Government attorney should diligently proceed to obtain his person in this district by way of removal.
> (b) Where a warrant of removal has issued outside this district ordering the defendant's removal to this district, the United States Marshal for tis district is directed to arrange for the defendant's prompt removal to this district ….

See Congressional Record, June 19, 1979, Vol. 125, Part 12 -- Senate page 15459, I(F)(3); *see also Taylor*, 821 F.2d at 1384 n. 10, citing H.Rep. No. 1508, 93d Cong., 2d Sess (1974) (1974 testimony of James L. Treece, Advisory Committee of U.S.

Attorneys, regarding transportation delays around removal hearing of defendant arrested out-of-district).

Finally, the Ninth Circuit's insistence that the Sixth Amendment *Barker v. Wingo* procedure will provide a remedy for defendants who are not transferred in a timely manner to the charging district is misplaced. Courts have repeatedly recognized that the Speedy Trial Act is designed to be more stringent than the Sixth Amendment, so "it will be an unusual case in which the time limits of the Speedy Trial Act have been met but the Sixth Amendment right to speedy trial has been violated." *See United States v. King*, 483 F.3d 969, 976 (9th Cir. 2007) (quoting *United States v. Nance*, 666 F.2d 353, 360 (9th Cir. 1982)). "[A] trial which complies with the Act raises a strong presumption of compliance with the Constitution." *United States v. Baker*, 63 F.3d 1478, 1497 (9th Cir. 1995). It is unnecessary to rely on *Barker v. Wingo* when the Act provides an avenue of relief for such delay.

It is not just the Ninth Circuit which has adopted this erroneous reading of the statute. *See Layfield*, 96 F.4th 1095, 1098-99, citing *United States v. Barnes,* 159 F.3d 4, 10 (1st Cir. 1998); *United States v. Lynch*, 726 F.3d 346, 353 (2nd Cir. 2013). Neither the Ninth Circuit, nor the First and Second Circuit cases on which it relied, grappled with the erasure of the "order of removal" language. This Court should grant review to correct this error in statutory interpretation and give effect to the Speedy Trial Act's promise to implement the Sixth Amendment's protection for a custodial defendant who is arrested out-of-district and not transported to the charging district in a reasonable period of time.

CONCLUSION

On the basis of the foregoing, the Court should grant the petition for writ of certiorari to resolve this important federal question.

Date: July 9, 2024

Respectfully Submitted,

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