

24-5486

No. _____

FILED

JUL 22 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Joel Salcedo — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. District Court for the Northern District of California
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joel Salcedo Reg. No. 23659-111
(Your Name)

P.O. Box 5000
(Address)

Yazoo City, MS 39194-5000
(City, State, Zip Code)

Not Available
(Phone Number)

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QUESTION(S) PRESENTED

**Violation of the U.S. Constitution by Depriving the Petitioner his Right
to a speedy trial Guaranteed by the U.S. Constitution Amendment VI.**

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:

TABLE OF CONTENTS

OPINIONS BELOW.....	5
QUESTION(S) PRESENTED	2
JURISDICTION	5
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	6
TABLE OF AUTHORITIES CITED	7
STATEMENT OF THE CASE	8,9
REASONS FOR GRANTING THE WRIT	10,11
CONCLUSION	12
PROOF OF SERVICE.....	13

INDEX TO APPENDICES

APPENDIX A: District Court Judgement Pertinent Part Doc. 1364 (2 pages)

APPENDIX B: Docket's Pertinent Part (13 pages)

APPENDIX C: Motion for Leave to proceed in Forma Pauperis (11page)

APPENDIX D: Ninth Circuit in Forma Pauperis status (2 pages)

APPENDIX E

APPENDIX F

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari to review the judgment below.

OPINIONS BELOW

For case from federal courts:

The opinion of the United States district court appears at Appendix A 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 is unpublished.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 District Court decided my case was on 05/22/24.

The jurisdiction of this Court is invoked under Rule 11 and 28 U.S.C. §2101(e).

The petitioner invokes Rule 11 to show that the case is of imperative public importance to justify deviation from normal appellate practice and to require immediate determination in this Court, declares as follows:

It is in the supreme public interest to keep the Constitution inviolate.

In this case a federal District Court has violated my Sixth Amendment right to a speedy trial and has done so with impunity over long periods of time.

On the other hand, only the Supreme Court is able to correct an issue common to all federal courts.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Sixth Constitution Amendment	8,9,10,11
Speedy Trial Act (18 U.S.C. Section 3161 et seq.)	8,10,11
18 U.S.C. Section 3161(c)(1)	11
18 U.S.C. Section 3161(h)	10

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Doggett v. United States, 505 U.S. 647	8, 10
Zedner v. United States, 547 U.S. 489 (2006)	11

STATUTES AND RULES

Speedy Trial Act (18 U.S.C. Section 3161 et seq.)	8,10,11
18 U.S.C. Section 3161(c)(1)	11
18 U.S.C. Section 3161(h)	10

OTHER

Black's Law Dictionary, 11th Edition, pg. 1688 (speedy trial)	8,11
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STATEMENT OF THE CASE

On 05/22/24 (Doc. 1364) the U.S. District Court for the Northern District of California denied Petitioner's motion to Dismiss indictment. The District Court's denial was based as follows: "The record conclusively reflects that time was properly excluded under the Speedy Trial Act, and this case did not involve unconstitutional post-indictment delay." However, the record shows the contrary, as:

On September 8, 2016, the Petitioner was indicted (DKT #10).

On May 21, 2019, the trial commenced (DKT #876), more than 32 months after indictment, which constitutes per se a constitutional violation involved. See Doggett vs. United States, 505 U.S. 647.

The Sixth Amendment secure the right to a speedy trial. In deciding whether an accused has been deprived of that right, courts generally consider the length of and reason for the delay, and the prejudice of the accused. (Ref. Speedy Trial, Black's Law Dictionary, Eleventh Edition, Page 1688.) It is proven that the Sixth Amendment was violated by the following:

1. Length of the delay : More than 32 months which is very prejudicial. One year or more is considered prejudicial.
2. Reason for delay: The Appellant did not contribute to delay, none delay is imputable to him.
3. Prejudice: More than 32 months in pre-trial incarceration is an outrageous prejudice.

Furthermore, the constitutional right to a speedy trial is also a public one which cannot be surrendered in any way.

REASONS FOR GRANTING THE PETITION

There is a compelling reason for the exercise of this Court discretionary jurisdiction and that is the supreme national interest for keeping the Constitution inviolate.

The courts, as in this case, arbitrarily decide if the constitutional right to a speedy trial has been violated. Although Congress enacted the Speedy Trial Act to solve the problems inherent in enforcing the constitutional right, it solves partially these problems because 18 U.S.C. Section 3161(h) could extend the time limits indefinitely, which would make null the fundamental constitutional right to a speedy trial. This Court as the ultimate interpreter of the Constitution should solve this problem, because otherwise the Constitution would be violated with impunity.

Here, the Constitution has been violated, and in support thereof the Petitioner states the following:

The Sixth Constitutional Amendment guarantees that in all criminal prosecutions, the accused shall enjoy the right to a speedy trial. To enforce this mandate, the Speedy Trial Act, 18 U.S.C. Section 3161 et seq., provides the time limit to charge and to bring to trial the accused subject to limited exclusions.

In this case, the Petitioner was deprived of his constitutional right to a speedy trial. First, a length of the delay, more than 32 months, suffices to violate the constitutional right to a speedy trial. See *Doggett v. United States*, 505 U.S. 647. Second, this violation is accompanied by a flagrant actual prejudice

to the Petitioner being incarcerated all time long. Furthermore, the Petitioner does not have any responsibility for the delay, so the reason for the delay is not attributable to the Petitioner, all of it goes to the Respondant. Third, the Speedy Trial Act, also was violated when between November 17, 2017 and April 16, 2018 there is a 150 days gap of not-excluded time in violation of 18 U.S.C. Section 3161(c)(1), thus the Act was violated and there is no need to address whether other periods of delay were not excludable. See Zedner v. United States, 547 U.S. 489. However, there were 194 days not excluded days from indictment to trial which is two and 3/4 times the maximum 70-day delay, provided by STA that was enacted to enforce the U.S. Constitution Amendment VI guarantee to a speedy trial. (Ref. speedy trial, Black's Law Dictionary, Eleventh Edition, page 1688.)

It has been proven that U.S. Constitution was violated. The District Court must set aside any judgement of conviction, vacate any sentence imposed, and dismiss the indictment.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

J. Wallace

Date: August 26th, 2024