No. 24-5678

IN THE SUPREME COURT OF THE UNITED STATES

REGINALD L. HOPKINS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the court of appeals correctly declined to adopt an implicit "ruse exception" -- pursuant to which state proceedings may be treated as though they were federal proceedings -- for the purpose of assessing the timeliness of a federal prosecution under the Speedy Trial Act, 18 U.S.C. 3161 et seq.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A1-A31) is reported at 106 F.4th 280. The order of the district court (Pet. App. C1c-C34) is not published in the Federal Supplement but is available at 2023 WL 3077802. An earlier order of the district court is not published in the Federal Supplement but is available at 2023 WL 2385928.

JURISDICTION

The judgment of the court of appeals was entered on July 9, 2024. A petition for rehearing was denied on August 2, 2024 (Pet. App. B1-B2). The petition for a writ of certiorari was filed on

September 25, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following his indictment in the United States District Court for the Middle District of Pennsylvania for distributing cocaine base, in violation of 21 U.S.C. 841(a)(1), and possessing firearms and ammunition following a felony conviction, in violation of 18 U.S.C. 922(g)(1); see Indictment 1-2, petitioner moved to dismiss the indictment. The district court granted in part and denied in part the motion to dismiss. Pet. App. C1-C34. The court of appeals reversed and reinstated the dismissed count of the indictment. Id. at A1-A31.

1. In early 2021, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) received information that petitioner was selling narcotics in Harrisburg, Pennsylvania, and that he might have firearms. Pet. App. A5. Officer Darrin Bates -- a police officer employed by the City of Harrisburg who was also cross-designated as an ATF task force agent -- opened a federal investigation into petitioner. Ibid. On February 19, 2021, Officer Bates, local Harrisburg police officers, and ATF agents executed a federal search warrant at petitioner's residence. Id. at A5-A6. They recovered several firearms, including at least one that had been reported stolen. Id. at A6. Petitioner was arrested that same day and charged in Pennsylvania state court with a

firearms offense and with receiving stolen property; he was then detained in state custody. Id. at A3, A6, C2-C3, C6.

On June 23, 2021, a federal grand jury indicted petitioner for distributing cocaine base, in violation of 21 U.S.C. 841(a)(1), and possessing firearms and ammunition as a felon, in violation of 18 U.S.C. 922(g)(1). Pet. App. A3; Indictment 1-2. In July 2021, petitioner was arraigned on the federal charges and detained. Pet. App. A3. The state charges against petitioner were later withdrawn. Id. at A3-A4, C3.

2. Between June 2021 and October 2022, petitioner "filed numerous unopposed motions to extend the deadline for filing pretrial motions under Federal Rule of Criminal Procedure 12 and to continue jury selection and trial." Pet. App. A4. "Six motions to continue were filed by two different defense counsel, each of whom also sought and received leave to withdraw from the case." Ibid. Petitioner then moved to dismiss the federal indictment, asserting, inter alia, that the prosecution violated the Speedy Trial Act of 1974, 18 U.S.C. 3161 et seq. Pet. App. A6, C5; D. Ct. Doc. 66 (October 6, 2022).

The Speedy Trial Act provides, in relevant part, that an "information or indictment charging an individual with the commission of an offense shall be filed within thirty days from the date on which such individual was arrested * * * in connection with such charges." 18 U.S.C. 3161(b). The Act further provides that a defendant's trial "shall commence within seventy days from

the filing date" of the 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." 18 U.S.C. 3161(c)(1). Certain "periods of delay" are "excluded in computing the time" limits. 18 U.S.C. 3161(h).

Although petitioner did not dispute that a state arrest does not ordinarily trigger Section 3161(b)'s 30-day charging clock, petitioner argued that his state arrest started the Speedy Trial Act clock here, on the theory that "the arrest on state charges was merely a ruse to facilitate federal prosecution." D. Ct. Doc. 66, at 6. Petitioner argued, in the alternative, that the delay in commencing trial had violated Section 3161(c)(1)'s 70-day clock. Ibid. After an evidentiary hearing, the district court denied the motion as to the cocaine-distribution count and granted the motion as to the firearms-possession count. Pet. App. A4-A5, A9-A10, C4-C5.

The district court explained that the timing of the federal prosecution would violate the Speedy Trial Act only if petitioner's February 2021 state arrest started the clock for purposes of the Act. Pet. App. C6. But a state arrest could start the clock only if -- as petitioner urged -- the court adopted a so-called "ruse" exception, whereby a state arrest could "trigger the Speedy Trial Act when the government has knowledge that an individual is held by state authorities solely to answer to federal charges" and "upon a showing of collusion or evidence that the detention was for the

sole or primary purpose of preparing for federal criminal prosecution." Id. at C7 (brackets, citations, and internal quotation marks omitted). The district court acknowledged that the Third Circuit had "not yet decided whether to adopt" any such exception. Ibid. But the district court took the view that it was "reasonably clear that the Third Circuit would adopt" a "ruse" exception "under the right circumstances." Id. at C8.

The district court stated that under the "ruse" exception that it was adopting, petitioner was required to establish two elements: (1) that the "state charges were filed for the sole or primary purpose of preparing the federal criminal prosecution," and (2) that there was "collusion between state and federal authorities." Pet. App. C8-C9; see id. at C10. The court deemed the first element satisfied because Officer Bates had stated in his bail recommendation to the state-court judge that petitioner was "being federally indicted" and "[i]f convicted would be looking at a 15 year mandatory sentence," id. at C11 (citation omitted), and because Officer Bates had spoken with federal prosecutors about a federal indictment before making the state bail recommendation, id. at C18; see id. at C21. And the court deemed the second element satisfied, emphasizing inconsistencies in Officer Bates's testimony. Id. at C23-C24.

Thus relying on "ruse" exception it had identified, the district court held that, because the federal indictment postdated the state arrest by more than 30 days, the federal prosecution

violated the Speedy Trial Act. Pet. App. C24. Although the remedy for such a violation is ordinarily dismissal, the court held that petitioner was entitled to dismissal of only "the offense or offenses charged in the original [state] complaint." Id. at C24-C25. The court accordingly dismissed only the federal firearms-possession count, which the court found to have charged petitioner with possessing the same firearms that he was charged with possessing in the state proceedings. Id. at C25.

3. The court of appeals reversed and reinstated the dismissed firearms-possession count, Pet. App. A1-A31, holding that the Speedy Trial Act "contains no ruse exception premised on a state arrest," id. at A13-A14.

The court of appeals explained that "[o]rdinarily, the time limits of the [Speedy Trial Act] have not been triggered by an event other than the commencement of a federal prosecution." Pet. App. A16. While the court acknowledged that other courts have suggested that there may be a "ruse" exception under which the Act's time limits can also be triggered by a state arrest, the court emphasized that "[n]o court of appeals has ever applied the ruse exception to conclude that [a Speedy Trial Act] violation had occurred and that dismissal of federal charges was therefore warranted." Id. at A20. And the court observed that statements by other circuits referring to a potential "ruse" exception "amount to dicta." Id. at A25 (citation omitted).

Turning to the question whether a "ruse" exception should be adopted, the court of appeals emphasized that the Speedy Trial Act "contains no explicit provision establishing a ruse exception." Pet. App. A22; see id. at A16 (observing that "no such exception is found anywhere in the text of the Act"). The court noted that the Act defines "offense" as a "'Federal criminal offense'" and that the Act's protections apply only after an individual has been "'arrested or served with a summons in connection with such charges' -- i.e., federal charges." Id. at A22 (quoting 18 U.S.C. 3172(2) and 3161(b)). The court accordingly observed that "[t]hose in search of statutory text within the [Act] that might support even the implication of a ruse exception inevitably come up empty-handed." Id. at A23-A24.

The court of appeals further emphasized that Congress "knows how to create exceptions within statutes" and "could have included a ruse exception" in the Speedy Trial Act, but Congress "did not do so." Pet. App. A24-A25. Recognizing that "it is not [a court's] role to search for ways to ostensibly improve an Act of Congress," the court "decline[d] to engraft a ruse exception on to the plain text of the [Act]." Id. at A25.

The court of appeals also observed that adopting a ruse exception would be "inconsistent with principles of federalism and dual sovereignty" and "would severely hinder prosecutorial discretion." Pet. App. A26-A27. It additionally noted that a ruse exception would "penalize[] much-needed and expected

coordination between state and federal law enforcement." Id. at A29 (citation omitted). And it reasoned that those considerations "dictate" that any ruse exception "should be a creation of Congress." Ibid. (citation omitted).

ARGUMENT

Petitioner renews his contention (Pet. 16-17) that the Speedy Trial Act contains an atextual "ruse exception" pursuant to which state proceedings may be treated as though they were federal proceedings. The court of appeals correctly declined to create such an exception, and petitioner has failed to identify any square conflict of authority warranting this Court's review. And this case would not be a suitable vehicle to address the question presented in any event.

1. The Speedy Trial Act requires an indictment "charging an individual with the commission of an offense" to be filed "within thirty days from the date on which such individual was arrested or served with a summons in connection with such charges." 18 U.S.C. 3161(b); see generally United States v. Tinklenberg, 563 U.S. 647, 652-656 (2011). As the Act makes clear, to trigger the 30-day clock, the arrest must be "in connection with" the same criminal "offense" charged in the indictment. 18 U.S.C. 3161(b); see United States v. Cepeda-Luna, 989 F.2d 353, 355-356 (9th Cir. 1993) ("The thirty-day requirement applies to an indictment issued in connection with the offense for which the defendant was arrested."); United States v. Reme, 738 F.2d 1156, 1162 (11th Cir.

1984) ("The time limitation for indicting an accused does not begin to run if the accused is arrested for an unrelated offense.") (citation omitted), cert. denied, 471 U.S. 1104 (1985). And the Act expressly defines "offense" as a "Federal criminal offense." 18 U.S.C. 3172(2).

An arrest on a state charge therefore does not trigger the time limits in the Act, even where a defendant is later indicted on federal charges based on the same underlying conduct. See, e.g., United States v. Robertson, 810 F.2d 254, 256 (D.C. Cir. 1987) ("It is beyond dispute that [18 U.S.C.] 3161(b) does not prevent the government from indicting a defendant on federal charges more than thirty days after his arrest on similar state charges."); United States v. Shahryar, 719 F.2d 1522, 1525 (11th Cir. 1983) (per curiam) ("[I]f one is held by state officers on a state charge and subsequently turned over to federal authorities for federal prosecution, the starting date for purposes of the Act is the date that the defendant is delivered into federal custody."); United States v. Iaquinta, 674 F.2d 260, 264 (4th Cir. 1982). Even beyond the text, "[c]ommon sense, as well as deeply rooted concepts of federalism dictate that the Speedy [Trial] Act rules relate only to federal and not to state custody." Shahryar, 719 F.2d at 1525.

The court of appeals thus correctly recognized that the Speedy Trial Act does not contain a "ruse" exception under which a state arrest could sometimes trigger the Act's time limitations. Pet.

App. A21-A25. As the court observed, the plain text of the Act does not admit of any such exception. Id. at A20. Congress clearly "knows how to create exceptions within statutes"; Congress's decision not to include a ruse exception in the Speedy Trial Act should be the beginning and end of the analysis. Id. at A24-A25; see United States v. Rabb, 680 F.2d 294, 296 (3d Cir.) ("To discern Congress' intent in [Section] 3161(b), we begin with the language of the statute itself because we presume that the words Congress has chosen best reflect the legislative purpose."), cert. denied, 459 U.S. 873 (1982).

Petitioner asserts (Pet. 17) that "the Ruse Exception serves Congressional intent by giving effect to the [Speedy Trial Act]." But the best evidence of Congress's intent is the text of the Act, which makes clear that only a federal arrest can trigger the Act's time limitations and contains no "ruse" exception. See pp. 8-10, supra; Pet. App. A24. In any event, no "ruse" exception is necessary "to protect the public's interest in the speedy administration of justice." Pet. 16 (quoting United States v. Ramirez-Cortez, 213 F.3d 1149, 1158 (9th Cir. 2000)). States are sovereigns independent from the federal government for purposes of criminal prosecution, see, e.g., Gamble v. United States, 587 U.S. 698 (2019), and they administer judge independently. An arrest "by one sovereign" cannot "cause the speedy trial guarantees to become engaged as to possible subsequent indictments by another sovereign." United States v. MacDonald, 456 U.S. 1, 10 n.11

(1982). Moreover, adopting a judge-made "ruse" exception would "penalize[] * * * coordination between state and federal law enforcement" -- even though such coordination "avoid[s] duplication of effort and resources." Pet. App. A29 (citations omitted).

2. Petitioner asserts (Pet. 14-16) that the decision below conflicts with decisions of other courts of appeals. But petitioner fails to identify any court of appeals decision that has actually applied a "ruse" exception to find that a state arrest triggered a violation of the Speedy Trial Act. Indeed, the court of appeals here found that "[n]o court of appeals has ever applied the ruse exception to conclude that [a Speedy Trial Act] violation had occurred and that dismissal of federal charges was therefore warranted." Pet. App. A20.

Multiple courts of appeals have expressly recognized that the Speedy Trial Act does not contain an atextual "ruse" exception for arrests on state charges followed by federal arrest and indictment on federal charges. See, e.g., United States v. Knight, 824 F.3d 1105, 1109 (D.C. Cir. 2016) (explaining that the en banc D.C. Circuit had declined "to adopt a ruse exception under the Speedy Trial Act") (citing United States v. Mills, 964 F.2d 1186, 1189-1190 (D.C. Cir.), cert. denied, 506 U.S. 977 (1992)); United States v. Alvarado-Linares, 698 Fed. Appx. 969, 974 (11th Cir. 2017) (emphasizing the lack of "Supreme Court or Eleventh Circuit authority recognizing a ruse exception in a situation like the

present case: state confinement on state charges followed by federal arrest and indictment on federal charges"), cert. denied, 584 U.S. 951 (2018).

The Fourth, Fifth, and Ninth Circuits have suggested that there may be an exception to the general rule that the Speedy Trial Act clock begins only upon a federal criminal arrest if a person is detained in state custody for the purpose of avoiding the Act's requirements. See United States v. Woolfolk, 399 F.3d 590, 596 (4th Cir. 2005); United States v. Kelley, 40 F.4th 276, 283 (5th Cir. 2022); United States v. Mearis, 36 F.4th 649, 653 (5th Cir. 2022); United States v. Benitez, 34 F.3d 1489, 1494 (9th Cir. 1994), cert. denied, 513 U.S. 1197 (1995). But none of the identified decisions actually applied such an exception, and the court of appeals in this case recognized such statements to be "dicta." Pet. App. A25 (citation omitted); see id. at A25-A26.

In United States v. Woolfolk, the Fourth Circuit suggested that the Speedy Trial Act's time limits may be triggered "when the Government has knowledge that an individual is held by state authorities solely to answer to federal charges." 399 F.3d at 596 (emphasis added). But the Fourth Circuit did not actually find that the defendant's state detention had triggered the Act. Instead, the Fourth Circuit remanded to the district court to determine whether the defendant "remained in state custody only to answer to federal charges" and whether "the restraint was a result of 'federal action.'" Id. at 596-597.

Moreover, the Fourth Circuit did so in "limited circumstances," Woolfolk, 399 F.3d at 596, substantially different from the ones here. In Woolfolk, unlike here, the defendant's state proceedings were terminated after he was federally charged and a federal detainer was filed, but he continued to be detained in state custody. Id. at 593-594. The Fourth Circuit made clear that when "a state has valid charges currently pending against an individual," an individual held by state authorities is not under "federal arrest." Id. at 595-596 (emphasis added). Here, petitioner does not dispute that valid state charges were pending against him until July 28, 2021, after he had already been federally indicted. See Pet. App. C3. There is thus no sound basis to suppose that the Fourth Circuit would necessarily have reached a different conclusion from the court of appeals below in petitioner's case.

In both United States v. Mearis and United States v. Kelley, the Fifth Circuit affirmed the district court's denial of a defendant's motion to dismiss an indictment, rejecting the defendant's argument that a "ruse" exception applied. See Mearis, 36 F.4th at 654; Kelley, 40 F.4th at 283-284. And although the Ninth Circuit suggested in United States v. Benitez that "Speedy Trial Act time periods may be triggered by state detentions that are merely a ruse to detain the defendant solely for the purpose of bypassing the requirements of the Act," 34 F.3d at 1494, the Ninth Circuit likewise rejected the defendant's argument that "the

state prosecution was merely a ruse," affirming the district court's denial of the motion to dismiss, see id. at 1492, 1495. Such affirmances are, at best, a tenuous basis for concluding that another circuit would have decided this case differently.

Petitioner's reliance (Pet. 14) on the Second Circuit's decision in United States v. Jones, 129 F.3d 718 (1997) (per curiam), cert. denied, 524 U.S. 911 (1998), is likewise misplaced. There, the defendant did not argue that his arrest on state charges triggered the Speedy Trial Act's time limit. Instead, he argued that his transfer into federal custody pursuant to a writ ad testificandum was an "arrest" under the Act. Id. at 721. The Second Circuit rejected that claim, stating "[t]he Act does not afford protection if the deprivation of liberty -- however labelled -- is for a reason other than requiring the defendant to answer to federal criminal charges." Id. at 722. The Second Circuit explained that the defendant's "transfer to federal custody did not start the clock under the Act, because he was transferred under a writ of habeas corpus ad testificandum pursuant to his tentative agreement to cooperate," and he was "therefore was not taken into federal custody 'in connection with' or 'for purposes of' answering federal charges." Id. at 723 (emphasis omitted). Accordingly, nothing in Jones -- which was decided in the context of the writ ad testificandum and rejected the defendant's Speedy Trial Act claim -- suggested that an individual's arrest on state charges can trigger the Act.

3. At all events, this case would be a poor vehicle to address the question presented.

First, this case is in an interlocutory posture because the court of appeals reversed the dismissal of the firearms-possession count in the indictment and remanded for further proceedings. Pet. App. A31. The interlocutory posture of a case ordinarily "alone furnishe[s] sufficient ground for the denial" of certiorari. Hamilton-Brown Shoe Co. v. Wolf Bros. & Co., 240 U.S. 251, 258 (1916); see Brotherhood of Locomotive Firemen & Enginemen v. Bangor & Aroostook R.R., 389 U.S. 327, 328 (1967) (per curiam) (observing that a case remanded to the district court "is not yet ripe for review by this Court"); Abbott v. Veasey, 580 U.S. 1104, 1105 (2017) (statement of Roberts, C.J., respecting the denial of certiorari).

Consistent with that general rule, this Court routinely denies interlocutory petitions in criminal cases. See Stephen M. Shapiro et al., Supreme Court Practice 4-55 n.72 (11th ed. 2019). That practice promotes judicial efficiency because, among other things, it enables issues raised at different stages of lower court proceedings to be consolidated into a single petition. See Major League Baseball Players Ass'n v. Garvey, 532 U.S. 504, 508 n.1 (2001) (per curiam) ("[W]e have authority to consider questions determined in earlier stages of the litigation where certiorari is sought from the most recent of the judgments of the Court of

Appeals."). Petitioner offers no reason to deviate from that practice here.

Second, this would not be a suitable vehicle to address whether the Speedy Trial Act contains a "ruse" exception because petitioner's underlying contention that the state-law prosecution was a "ruse" (as he would define it) lacks merit. The district court's contrary view rested primarily on Officer Bates's reference to a future federal indictment during the state bail proceedings. Pet. App. C11, C18, C21. But Officer Bates clarified that he was expressing his personal "impression" of the case's likely future and that a federal prosecution had not been determined at the time of petitioner's arrest. C.A. App. 235-236, 241; see id. at 223-224, 228-230, 234-237.

The officer's testimony was corroborated by the fact that the ongoing federal investigation -- and the federal indictment that eventually issued -- was focused on petitioner's drug-trafficking activity, which was not the subject of any state charges. See C.A. App. 82, 116, 119, 164. No evidence of drug offenses was found during the joint federal-state search of petitioner's home, nor was drug-trafficking the basis for his state arrest. Id. at 164; Pet. App. C2-C3. Moreover, a state prosecutor testified that petitioner was arrested on legitimate state charges; that state authorities handled the prosecution "normally"; and that the State fully intended at the time to prosecute petitioner for illegally

possessing stolen firearms, whether or not federal authorities also indicted him. C.A. App. 166-167.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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