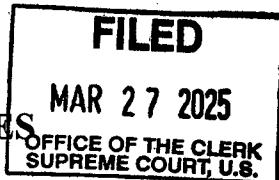


NO.

24-6909 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



**In re Brittany Hudson**

**PETITION FOR WRIT OF HABEAS CORPUS**

BRITTANY HUDSON-Pro Se  
USMS 24309-510  
Robert A. Deyton Detention Facility  
c/o P.O. Box 730  
Lovejoy Ga, 30250

## **LIST OF PARTIES**

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 subject of this petition is as follows:

**Batten, Timothy C.;**

Chief District Judge Northern District of Georgia Eleventh Circuit

**Cannon, Regina D.;**

United States Magistrate Judge

**Evert, Nicholas;**

Assistant United States Attorney

**McClain, Stephen;**

Assistant United States Attorney

**Moultrie Jr., Richard S.;**

United States Attorney

**Pregolar, Elizabeth;**

United States of America Solicitor General

**Tripp, Walter Brick;**

Facility Administrator of Robert A. Deyton Detention Facility

## **RELATED CASES**

In the District Court for the Northern District of Georgia in the 11<sup>th</sup> Circuit

**United States v. Brittany Hudson**

CASE NO 1:22-CR-362-TCB

In the District Court for the Northern District of Georgia in the 11<sup>th</sup> Circuit

**United States v. Brittany Hudson**

CASE NO 1:23-CR-131-TCB

In the District Court for the Northern District of Georgia in the 11<sup>th</sup> Circuit

**Brittany Hudson v. United States**

CASE NO 1:23-cv-05734-TCB

## TABLE OF CONTENTS

	Page #
<b>1. OPINIONS BELOW.....</b>	<b>1</b>
<b>2. JURISDICTION.....</b>	<b>2</b>
<b>3. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....</b>	<b>2</b>
<b>4. STATEMENT NOT FILING IN DISTRICT COURT .....</b>	<b>3</b>
<b>5. STATEMENT OF THE CASE.....</b>	<b>4</b>
<b>6. REASONS FOR GRANTING THE WRIT.....</b>	<b>9</b>
a. Writ in aid of Court's Appellate Jurisdiction.....	9
b. Exceptional circumstances which warrants the Court's Discretionary power.....	10
c. Relief cannot be obtained in any other form.....	19
<b>7. CONCLUSION.....</b>	<b>20</b>

## INDEX OF APPENDICES

**Appendix A-** District Judge Order Denying Petitioner's Emergency Motion

**Appendix B-** Petitioner's Emergency Motion for Immediate Release

**Appendix C-** Transcripts of Arraignment held on June 27, 2023

**Appendix D-** Arrest Warrant

**Appendix E-** Detention Order February 1, 2023

**Appendix F-** Docket Sheet for Case 1:23-cr-131-TCB

**Appendix G-** Docket Sheet for Case 1:22-cr-362-TCB

## TABLE OF AUTHORITIES

	Page #
<b>Cases:</b>	
Banker's Life & Cas. Co., v. Holland, 346 U.S. 379, 384 (1953).....	10
Ex parte Fahey, 332 U.S. 258, 260, 67 S.Ct. 1558, 91 L.ED. 2041 (1947).....	10
Glover v. United States, 531 U.S. 198, 203 (2001).....	12
Harris v. Nelson, 394 U.S. 286; 89 S. Ct. 1082; 22 L.Ed. 2D 281 (1969).....	20
Jones v. Cunningham, 371 U.S. 236; 83 S. Ct. 373; 9 L. Ed. 2D 285 (1963).....	20
La Buy v. Howes Leather Co., 352 U.S. 249 (1957).....	10, 19
Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847, 863-864, 108 S. Ct. 2194, 100 L. Ed. 2D 855 (1988).....	10
Preiser v. Rodriguez, 411 U.S. 475.....	2
Roche v. Evaporated Milk Assn., 319 U.S. 379, 384 (1953).....	10
Sampson v. Murray, 415 U.S. at 90, 94 S. Ct. at 953.....	13
Siegel v. LePore, 234 F.3d 1163, 1176 (11 <sup>th</sup> Cir. 2000).....	12
United States v. Accetturo, 783 F.2d 382 (3d Cir. 1986).....	13
United States v. Barone, 2010 U.S. Dist. LEXIS 57965.....	13
United States v. Brooks, No. ELH-20-0034, 2024 WL 1194391 (D. Md. Mar. 19, 2024).....	15
United States v. Hart, 91 F.4th 732 (4th Cir. 2024).....	18
United States v. Lopez-Espindola, 632 F.2d 107 (9th Cir. 1980).....	18
United States v. Marion, 404 U.S. 307, 320, 1971.....	12
United States v. Salerno, 481 U.S. 739, 745, 107 S. Ct. 2095, 95 L. Ed. 2D 697 (1987).....	4
United States v. Zannino, 798 F.2d 544, 548 (1st Cir. 1986).....	13

**Statutes**

1.	Title 18 U.S.C. § 3161.....	7, 8
2.	Title 18 U.S.C. § 3164.....	6, 9
3.	Title 28 U.S.C. § 2241.....	1

**Other**

IN THE  
**SUPREME COURT OF THE UNITED STATES**  
**PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner respectfully prays that a writ of habeas corpus issued to review the questions presented.

**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 \_\_\_\_\_ 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 \_\_\_\_\_ 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.

## **JURISDICTION**

This action arises under the Constitution of the United States vested within this Court by Article III. This Court also has jurisdiction under Supreme Court Rule 20, All Writs Act 28 U.S.C. § 1651 and 28 U.S.C. § 2241. The Petitioner is presently in custody under color of authority of the United States of America and such custody is in violation of the United States Constitution, laws or treaties of the United States. It is clear, not only from the language of §2241(c)(3), but also from the common-law history that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody.<sup>1</sup> The writ was given explicit recognition in the Suspension Clause of the Constitution Article 1, § 9 cl. 2.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Fifth Amendment of United States Constitution

Due Process Clause

No person shall be deprived of life, liberty, or property, without due process of law

Sixth Amendment of United States Constitution

Speedy Trial Clause

In all criminal prosecutions, the accused shall enjoy the right to a speedy trial

Title 18 U.S.C. § 3161

Title 18 U.S.C. § 3162

Title 18 U.S.C. § 3164

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<sup>1</sup> See: *Preiser v. Rodriguez*, 411 U.S. 475

**STATEMENT FOR NOT FILING IN DISTRICT COURT PURSUANT TO RULE 20.4**

The case at hand is truly a peculiar one and Ms. Hudson prays the Court review the merits of this Petition. The Petitioner has exhausted all remedies available in the District Court to include filing a Petition for a Writ of Habeas Corpus and has attempted to Appeal Motions for Release. Throughout the pendency of the criminal cases within the District Court the Respondents have not adhered to the rules set forth by this Honorable Court and by the Constitution of the United States. The District Court has refused to protect the Petitioner's Constitutional rights and have overlooked the violations that have been presented within the pending criminal matters. Because there are no additional remedies available to this Petitioner for relief, Petitioner seeks the Writ of Habeas Corpus from this Honorable Court.

## STATEMENT OF THE CASE

The Petitioner is detained pretrial based on a Court Order issued in the Eleventh Circuit District Court. The Fifth Amendment of the Constitution provides that, “no person shall be deprived of life, liberty, or property, without due process of law.” (Fifth Amendment) The Sixth Amendment of the United States Constitution provides, “in all criminal prosecutions, the accused shall enjoy the right to a speedy trial.” (Sixth Amendment) Both the Fifth and the Sixth have been violated before the District Court.

The Petitioner asserts that her current detention has exceeded 770 days and is in violation of the stringent time limit set by this Honorable Court in Salerno.<sup>2</sup> This violates the Fifth and Sixth Amendment. The Petitioner has not been arrested for a category of “extremely serious offenses,” and there has been no clear and convincing evidence to support continued detention. Also, pertaining to the Petitioner, there has been no special circumstance that accompanies the dangerousness rationale. The arrest warrant was invalid and unsupported by oath or affirmation.

Habeas Corpus “is not now and has never been a static, narrow, formalistic remedy; it’s scope has grown to achieve its grand purpose- the protection of individuals against erosion of their right to be free from wrongful restraints upon their liberty.” The very nature of the Writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected. The Petitioner respectfully submits this Petition for Writ of Habeas Corpus, where her Constitutional rights have been denied to address the illegal and oppressive pretrial detention

The Petitioner was charged in a Criminal Information on September 29, 2022, with one count of Conspiracy to Commit Wire Fraud in case 1:22-CR-362. The Prosecution filed a Motion to Revoke the Petitioner’s bond on January 26, 2023. On January 27, 2023, the

<sup>2</sup> See: United States v. Salerno, 481 U.S. 739, 745, 107 S. Ct. 2095, 95 L. Ed. 2d 697 (1987)

Petitioner was arrested without an arrest warrant. There was a bond hearing held on February 1, 2023, and Magistrate Judge Vineyard ordered the Petitioner detained pretrial. (Appendix E)

On February 22, 2023, the alleged arrest warrant was filed as “returned.” The alleged arrest warrant is unconstitutional and was not supported by Oath or affirmation. The warrant was not filed as issued in the case and only filed as returned. (Appendix G)

On April 19, 2023, the Petitioner filed a Notice of Settlement of All Debt Claim and Court Moved to Vacate All matters, presenting a defense.<sup>3</sup> However, the Prosecution retaliated and filed an indictment against the Petitioner on the same day to circumvent proving jurisdiction. The Indictment alleges the conduct charged in the Criminal Information and other charges which was the result of the bond violation.

On June 20, 2023, the Petitioner filed a Motion to Dismiss for Violation of the Speedy Trial Act and the Prosecution retaliated again by filing a Superseding Indictment. What is shocking to the conscience, is that the Prosecution filed the Superseding Indictment to circumvent the Petitioner’s speedy trial right by adding a deceased individual to the indictment.

On June 27, 2023, the Petitioner was arraigned on the Superseding Indictment in case 1:23-CR-131. During the arraignment before Magistrate Judge Cannon, the Prosecution conceded that the Speedy Trial 70-days had tolled in the Criminal Information. The Prosecution stated, “they would agree to a dismissal without prejudice because if the Court would issue a dismissal with prejudice it would affect the indicted case.”<sup>4</sup> The Prosecution stated on the record that the Prosecution filed the indictment because the Petitioner would not accept the plea

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<sup>3</sup> See: Document 30 filed in Case 1:22-CR-362.

<sup>4</sup> See: Appendix C - Transcripts of Arraignment held on June 27, 2023 page 14 Lines 17-21

agreement and the Prosecution also stated on the record the indictment contained the alleged conduct charged in the Criminal Information.<sup>5</sup>

From May 11, 2023, to February 2, 2024, the Petitioner's then Counsel filed Motions for Extensions of Time as there was and still is outstanding discovery. The extensions were not requested in the Criminal Information (1:22-Cr- 362) as the Petitioner was awaiting response on the Motion to Dismiss for Violation of Speedy Trial to be heard on the Criminal Information as stated it would affect the outcome of the indicted case. (1:23-CR-131) (Appendix F and Appendix G)

On April 15, 2024, the Petitioner filed an Emergency Motion for Immediate Release arguing that the Petitioner's pretrial detention exceeded the 90-days of continuous detention and a violation of Due Process pursuant to 18 U.S.C. § 3164, the Local Rules of the Northern District of Georgia and Due Process of Law.<sup>6</sup>

On April 18, 2024, Magistrate Judge Cannon took the Emergency Motion Under advisement.

On May 2, 2024, the Prosecution responded alleging that due to the filing of the Indictment, the Speedy Trial Clock was stopped in the Criminal Information and that the detention beginning on January 27, 2023, did not trigger the Speedy Trial Clock to start because the detention was the result of a violation of bond conditions. The Prosecution also argues that the Speedy Trial Clock does not continue to run from the Criminal Information through the Indictment as there is an independent lawful source of detention in the indicted case.

On May 29, 2024, the Petitioner filed her objections to the Prosecution's rebuttal of the Emergency Motion for Immediate Release.

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<sup>5</sup> See: Appendix C - Transcripts of Arraignment held on June 27, 2023 page 14 Lines 2-5

<sup>6</sup> See: Appendix B - Petitioner's Emergency Motion for Immediate Release

More than 200 days later, on November 5, 2024, despite the many requests for hearings and the Petitioner's continued assertion of the Speedy Trial Right.

On December 20, 2024, the Court held a surprise hearing without providing notice and without placing a notice on the record in reference to the continued Discovery violations and a Motion for Release.<sup>7</sup>

The Petitioner's Fifth Amendment right of Due Process and Sixth Amendment right of Speedy Trial is continuously violated. The questions before this Honorable Court is if release is warranted as a right of Due Process based on the 90-days of continuous detention being violated and would address the Petitioner's rights. The District Court is erroneously utilizing the filings within the pending cases to stop the clock and deprive the Petitioner of the right. The Magistrate Judge is intentionally taking one motion at a time under advisement to circumvent the right to a speedy trial. The Petitioner outlines the following Speedy Trial violations:

In the Criminal Information 1:22-CR-362, the Petitioner should have been taken to trial within 70 days. (18 U.S.C. § 3161(c )(1))

September 29, 2022-January 26, 2023	[118 days]
February 1, 2023- March 24, 2023	[50 days]
March 31, 2023- November 2, 2023	[215 days]
June 18, 2024- June 25, 2024	[8 days]
June 27, 2024- July 30, 2024	[33 days]
September 24, 2024- November 10, 2024	[46 days]
February 13, 2025- March 26, 2025	[42 days]
<b>Total</b>	<b>[512 days]</b>

In the Indicted case 1:23-CR-131, the Petitioner was not indicted within 30 days of arrest. (18 U.S.C. § 3161(b))

January 26, 2023

Respondent(s) Motion to Revoke Bond Filed

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<sup>7</sup> See: Appendix H and Appendix I- Docket sheets will prove that there was no hearing scheduled. Which deprived the Petitioner of her right of notice and right to defend.

January 27, 2023	Petitioner was arrested and detained
January 27, 2023- January 1, 2023	[4 days]
February 1, 2023	Bond Hearing on Respondent(s) Motion
February 2, 2023- April 18, 2023	[77 days]

**Days detained before filing of indictment Total [82 days]**

In the indicted case 1:23-CR-131 the Petitioner also was not taken to trial within 70 days. (18

U.S.C. § 3161(c)(1))

April 19, 2023	<b>Initial indictment filed</b>
April 20, 2023-April 26, 2023	[7 days]
April 27, 2023- May 10, 2023	[21 days]
June 20, 2023	Petitioner file Motion to Dismiss Violation of Speedy Trial Act
June 20, 2023	Superseded Indictment filed
June 27, 2023	Arraigned on the Superseding Indictment
June 28, 2023-July 11, 2023	[13 days]
July 27, 2024- July 30, 2024	[33 days]
September 24, 2024-November 10, 2024	[46 days]
February 13, 2025- March 26, 2025	[42 days]
<b>Total</b>	<b>[162 days]</b>

Pursuant to title 18 U.S.C. § 3164(c) No detainee shall be held in custody pending trial after the expiration of such ninety-day period required for the commencement of trial. However, the Petitioner has been detained in excess of 90 continuous days.

February 2, 2023 – March 23, 2023	[50 days]
April 1, 2023 – April 18, 2023	[18 days]
April 20, 2023 – May 10, 2023	[21 days]
June 28, 2023 – July 11, 2023	[13 days]
September 24, 2024 – November 10, 2024	[47 days]
February 13, 2025- March 26, 2025	[42 days]
<b>Total</b>	<b>[191 days]</b>

## **REASONS FOR GRANTING THE WRIT**

This Honorable Court should grant the Writ of Habeas Corpus where the issues presented are important ones and require the guidance of this Court to the lower courts to create harmony within the circuits. The Petitioner respectfully submits the Petition for Writ of Habeas Corpus, where her Constitutional rights have been deprived within the illegal pretrial detention. The District Court has deprived the Petitioner of the right of Due Process, right to a Speedy Trial, and Equal Protection of the Law.

The Sixth Amendment guarantees the right to a speedy trial. Speedy Trial Act of 1974 which is supported by 18 U.S.C. § 3161-3174 was introduced to ensure that Federal Courts neither abridge or dilute this constitutional guarantee. A violation of the Speedy Trial Act results in mandatory dismissal of the case or complaint. (18 U.S.C § 3162) Due Process of the Law affords the Petitioner the right to be free from indefinite pretrial detention pursuant to 18 U.S.C. § 3164. The core of the Habeas is to seek a speedier release from the oppressive incarceration. Therefore, the Petitioner requests this Courts review of the questions presented.

### **A. WRIT WILL BE IN AID OF THE COURT'S APPELLATE JURISDICTION**

Granting the Petitioner's writ may be necessary to facilitate the exercise of the Court's appellate jurisdiction, ensuring that errors made by the lower courts are corrected in a fair and just manner. Several circuits have contradicting opinions on the questions presented. Therefore, granting this writ will aid in the Court's Appellate jurisdiction by promulgating rules based on the questions presented for review to bring the staggering opinions in the lower court to follow the opinion set by this Honorable Court.

Also, granting the Petitioner's writ will aid in the Court's appellate jurisdiction by correcting jurisdictional errors. The lower court has acted beyond it's jurisdiction and has

misinterpreted the law. The Petitioner therefore, submits this Petition to ensure that justice is properly served and errors are corrected.

## **B. EXCEPTIONAL CIRCUMSTANCES THAT WARRANTS THE EXERCISE OF THE COURT'S DISCRETIONARY POWERS**

This case is sufficiently "exceptional" to warrant utilization of this Court's rule 20.1 and 20.4(a), 28 U.S.C § 2241, and it's original habeas jurisdiction to confine the inferior court to a lawful exercise of its prescribed jurisdiction.<sup>8</sup> The District Court has also displayed a persistent disregard of the rules promulgated by this Honorable Court<sup>9</sup> and the right to the writ here is clear and indisputable.<sup>10</sup> The Petitioner cannot seek a remedy on appeal as the irreparable harm is great and certain and would be a moot point if forced to wait to appeal<sup>11</sup> the arguments post-conviction.

Also, in determining whether extraordinary circumstances are present, a court may consider a wide range of factors. These may include, in an appropriate case, "the risk of injustice to the parties" and "the risk of undermining the public's confidence in the judicial process."<sup>12</sup> The Petitioner's case is unique and warrants consideration because the Petitioner filed a Motion to Recuse the Judge and Change venue. However, the Chief District Judge Timothy C. Batten denied the Motion in violation of Due Process of Law. The Petitioner mailed her rebuttal on September 20, 2024. However, the Clerk nor the Judge filed it in the case although the tracking proves that the documents were delivered. Withholding documents is in violation of 18 U.S.C §§

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<sup>8</sup> See: *Roche v. Evaporated Milk Assn.*, 319 U.S. 379, 384 (1953)

<sup>9</sup> See: *La Buy v. Howes Leather Co.*, 352 U.S. 249 (1957)

<sup>10</sup> See: *Banker's Life & Cas. Co., v. Holland*, 346 U.S. 379, 384 (1953)

<sup>11</sup> See: *Ex parte Fahey*, 332 U.S. 258, 260, 67 S.C.T. 1558, 91 L.ED. 2041 (1947)

<sup>12</sup> See: *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847, 863-864, 108 S. Ct. 2194, 100 L. Ed. 2D 855 (1988).

2071 and 2076. The Judge in this matter is a victim which warrants recusal but failed to do so, despite the Petitioner filing the Motion requesting recusal. This is causing prejudicial bias and causing the Judge to ignore the continued violations of the Petitioner's constitutional rights.

The Petitioner has challenged the jurisdiction of the Court. In retaliatory behavior, the Respondent(s) then filed an indictment on the same day to circumvent proving the jurisdiction of the Court and in retaliation because the Petitioner did not accept their plea agreement.<sup>13</sup> Then to circumvent the Petitioner's Speedy Trial Right guaranteed by the Sixth Amendment, the Prosecution filed a superseding indictment the same day the Petitioner filed her Motion to Dismiss for Speedy Trial Violation. The Prosecution erroneously applied the law in the Petitioner's case to deprive her of due process of law with continued detention exceeding 770 days.

**The Petitioner has suffered irreparable injury;**

The irreparable injury caused to the Petitioner is certain, great and continuous. The Petitioner's Fifth Amendment claim of excessive pretrial detention and Sixth Amendment Speedy Trial Violation triggers a finding that the Petitioner has suffered and will suffer irreparable harm absent of relief. The Due Process Clause of the Fifth Amendment of the United States Constitution forbids the Respondents from depriving a person of life, liberty and property without due process of law. The pretrial detainment has caused and continues to cause irreparable harm to the Petitioner and her family. The pretrial detention has continued to deprived the Petitioner of a right to present a full defense as guaranteed by the Sixth Amendment.

It is well established that the deprivation of Constitutional rights unquestionably constitutes irreparable injury.<sup>14</sup> Although a finding of a Constitutional violation is sufficient to

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<sup>13</sup> See: Appendix C, Page 14 Lines 22-24

<sup>14</sup> See: Hernandez v. Sessions, 872 F.3d at 994; (Melendres v. Arpaio, 695 F.ed at 1002)

establish irreparable harm, the Court may also find that other irreparable harm accompanies the Constitutional violation. “Arrest is a public act that may seriously interfere with the defendant’s liberty, disrupt his employment, drain his financial resources, curtail his associations, subject him to public obloquy, and create anxiety in him, his family and friends.”<sup>15</sup> All of which has occurred to the Petitioner. The Petitioner was further harmed as the arrest warrant is unconstitutionally valid. She is unable to prepare her defense, review discovery, and unable to aid in the care of her son who’s primary caretaker is terminally ill. “Any amount of jail time has [Fifth and] Sixth Amendment significance.”<sup>16</sup> The current illegal detention is also preventing the Petitioner from going out and seeking the exculpatory evidence, subpoena witnesses, and preventing her from preparing a full defense.

“The traditional standard for granting an Extraordinary Writ requires the Petitioner to show that in the absence of its issuance he will suffer irreparable harm”<sup>17</sup> The harm must be actual and imminent,<sup>18</sup> which has been proven by the Petitioner. The key word in this consideration is “irreparable”. There is no amount of money or other corrective relief that can be provided to the Petitioner that would repair the injury that has been caused by the two years spent in pretrial detention nor that would be spent if this petition is not granted. “An injury is irreparable only if it cannot be undone through monetary remedies.”<sup>19</sup> Granting the Writ of Habeas Corpus to repair the irreparable harm tips sharply in favor of relief. The Constitution

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<sup>15</sup> See: *United States v. Marion*, 404 U.S. 307, 320, 1971

<sup>16</sup> See: *Glover v. United States*, 531 U.S. 198, 203 (2001)

<sup>17</sup> See: *McDonald’s Corp. v. Robertson*, 147 F.3d 1301

<sup>18</sup> See: *Siegel v. LePore*, 234 F.3d 1163, 1176 (11<sup>th</sup> Cir. 2000)

<sup>19</sup> See: *Sampson v. Murray*, 415 U.S. at 90, 94 S. Ct. at 953

requires due process of law for everyone and to afford equal protection of the law. The Petitioner moves this Honorable Court to remedy the violations within the District Court.

**The questions presented involve questions of significant public importance**

**Question #1**

The Petitioner's first question asks this Honorable Court, at what point and under what circumstances does pretrial detention become unconstitutional?

The Petitioner submits this important federal question for this Courts review as the lower courts have entered decisions which contradict one another. The Third Circuit has clearly recognized that a Defendant's due process guarantee requires release in the event of unduly prolonged pretrial detention.<sup>20</sup> The question that has warranted staggering differences within the different Circuits is at what point and circumstances is unduly prolonged pretrial detention? The Court in Barone established that 16 and a half months of pretrial detention is not unconstitutional.<sup>21</sup> However, the Court in Zannino established that 16 months was found to exceed due process limitations.<sup>22</sup>

Here the Petitioner brings forth this question as she has been detained more than 25 months and has not been charged with the most serious of crimes as outlined by the Supreme Court in Salerno and her detention has exceeded the stringent timeframe set by this Court. Lastly, there are no extenuating circumstances that would aid in the dangerousness of the Petitioner to warrant indefinite pretrial detention. The review of this question will resolve the

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<sup>20</sup> See: United States v. Accetturo, 783 F.2d 382 (3d Cir. 1986)

<sup>21</sup> See: United States v. Barone, 2010 U.S. Dist. LEXIS 57965, 2010 WL 2366581, AT \*2 (S.D.N.Y June 11, 2010)

<sup>22</sup> See: United States v. Zannino, 798 F.2d 544, 548 (1<sup>st</sup> Cir. 1986)

conflicts in the lower courts, aid in Court's appellate jurisdiction and will provide sufficient standards for protecting the fundamental right of the Petitioner and the People.

## **Question #2**

Pursuant to 18 U.S.C. § 3164 does the 90 days of continuous detention begin anew when the Petitioner was charged with a Criminal Information and arrested for bond violation, then while detained she is charged with the same conduct in the Criminal Information, substantive acts and additional crimes that was also charged in the subsequent indictment, while the Criminal Information is still pending?

The Petitioner raises this question before this Honorable Court because should this Court determine that the 90-days of continuous detention does not start anew then the Petitioner is subject to immediate release. The District Court alleges that the Petitioner's arrest is not "in connection" with the charges but that her arrest was pertaining to violations on bond.

The Court cites no case law to support the argument that the clock begins anew upon the filing of the case. The Court previously denied a Co-Defendant's Motion to Dismiss for Violation of Speedy Trial. The Order states that the Speedy Trial clock did not begin until the Defendant was charged in the indictment. The Petitioner and her Co-Defendant's case is significantly different in the Petitioner before this Court's indictment includes the conduct alleged in the Criminal Information for which the Petitioner was on bond for and crimes alleged that the Petitioner committed while on Bond. (Appendix A)

The Petitioner argues that the clock began to toll when Petitioner was arrested on January 27, 2023. As acknowledged by the District Court there is no precedence answering this question.

This warrants review by this Honorable Court to clarify and promulgate a rule to provide clarity to the lower courts.

**Question #3**

The Petitioner's next question, pursuant to 18 U.S.C. § 3161, is when does the 30-day Speedy Trial Clock toll for the Prosecution to file an indictment when the Defendant is arrested for violation of Bond Conditions and the Magistrate Judge finds probable cause that the Defendant committed new crimes?

The Order of the District Court alleges, "because her arrest was the result of her bond violation, it did not start a Speedy Trial Act clock requiring Hudson to be indicted within thirty days of arrest." (Appendix A Id. at 9) However pursuant to the alleged arrest warrant and the Prosecution's Motion to Revoke Bond, she violated the bond conditions by committing of new crimes. (Appendix D) At the bond hearing on February 1, 2023, Magistrate Judge Vineyard found probable cause that the new crimes alleged in the indicted case were committed. The District Court rejected the argument that the Prosecution failed to obtain the indictment within 30 days. As there is no review of this question by this Court there is no precedence for the District Court to follow.

The Petitioner adds, the plain language of the Act states the indictment must be filed within 30 days from the date on which such individual was arrested or served with a summons in connection with such charges. The connection is proven that the allegation of Wire Fraud and Forgery is what triggered the Prosecution's Motion to Revoke Bond and those same allegations is what is keeping the Petitioner detained pretrial. The interpretation of any statute begins with

the language of the act itself. The Petitioner requests that this Court issue this writ to answer question presented.

#### **Question #4**

The Petitioner then asks this Court does the “delay resulting from trial with respect to other charges” stop the speedy trial clock when both cases pertaining to the Petitioner contain the same conduct, within the same district, before the same judge, and is prosecuted by the same prosecutors utilizing the same evidence?

This Honorable Court shall answer this important question because the existence of a conflict between the decision of Lower Courts. The District Court in the case of the Petitioner states that the Speedy Trial Clock tolled from February 2, 2023, through April 19, 2023. Judge Cannon concluded and Judge Batten adopted the Detention, “has not exceeded ninety days in this case due to “delay resulting from trial with respect to other charges against the Defendant.” (18 U.S.C. § 3161(h)(1)(B) Judge Batten adopts the view of the Court in United States v. Brooks. The District Court found United States v. Brooks, No. ELH-20-0034, 2024 WL 1194391 (D. Md. Mar. 19, 2024), superseded by 2024 WL 2302325 (D. Md. May 21, 2024) to be persuasive. Brooks had two independent pending cases in the same district. Brooks’ first case was one count Possession of a firearm by a prohibited person and his second case was Hobbs Act violation. The two cases were tried before different judges. In Brooks, the district court excluded the time encompassing federal Hobbs Act charges brought while the Defendant was awaiting trial on an independent federal charge in the same jurisdiction, and held that the 18 U.S.C. § 3161(h)(1)(B), encompasses the time between the date on which a defendant is indicted on other

charges and the date on which the defendant is sentenced on those charges.” Brooks, 2024 WL 2302325, at \*19. (Appendix A Id. At 16)

The Petitioner argues that the time from the filing of the indictment through its conclusion **shall not be** excluded under 18 U.S.C. § 3161(h)(1)(B) as delay resulting from trial for two reasons. First, the days resulting from trial shall not include the entire time from the filing of the case through the sentencing as Congress was specific to state from “trial” and second, her cases are not independent federal cases charging different acts. The Petitioner’s cases involve the same conduct, she has not been removed from the district and all parties and evidence is the same. Also, the same Judge is presiding over both matters pertaining to the Petitioner, although there warrants a recusal. The Petitioner’s case is unique as she has not found any case similar to hers to present before this Court to seek guidance or precedence. In Brooks his two cases were independent of one another. In the case of the Petitioner at bar, the cases are not independent and consist of the same conduct which could be considered Double Jeopardy. The Petitioner filed a Motion seeking that the District Court choose between the dismissal of the Criminal Information or Dismiss the Counts within the Indicted case pertaining to the Conduct on or about June 21, 2023.<sup>23</sup> As of filing this Petition, that Motion has not been determined by the District Court. Furthermore, the Petitioner’s motions have been pending more than an average of 200 days in the district court.

#### **Question #5**

The previous question leads the Petitioner to ask this Honorable Court if, pursuant to 18 U.S.C. § 3161(h)(1)(b) does delay “resulting from trial” with respect to other charges stop the

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<sup>23</sup> See: Document 25 in case 1:23-CR-131-TCB-RDC

speedy trial clock at the filing of the case through the judgment or from the beginning of voir dire (jury selection)?

This question is significant to the public interest and the Petitioner. The District Court alleges that the Speedy Trial Clock in the Criminal Information has not run because the clock is stopped from April 19, 2023, through the pendency of the indicted case. The Petitioner's Speedy Trial Clock has been violated by more than 500 days within the Criminal Information which warrants dismissal with prejudice and by more than 150 days in the Indicted case. However, the District Court alleges that from the time of the filing of the Indicted case until it is concluded, those days will be excluded. Magistrate Judge Cannon concluded no other precedent directly addresses this question. Therefore, this question warrants this Courts review.

The Petitioner raises this question as there are discrepancies between the Lower Courts on these decisions or there has been no decision on these questions in this Court. The Petitioner argues that the plain language of the Act shall be adopted in that "delay resulting from trial" that the only automatic excludable time shall be the time for actual trial, as in from the beginning of the voir dire.<sup>24</sup> However, the District Court alleges that the time from the filing of the case through judgment and sentencing shall be excluded.<sup>25</sup> The District Court in the case of the Petitioner adopted the broad interpretation of the language stating that "trial," "not only involves the trial itself but also the period of time utilized in making necessary preparation for trial." Which in their interpretation also includes the time for pretrial motions.

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<sup>24</sup> See: (citing) United States v. Hart, 91 F.4<sup>th</sup> 732 (4<sup>th</sup> Cir. 2024)

<sup>25</sup> See: United States v. Lopez-Espindola, 632 F.2d 107 (9<sup>th</sup> Cir. 1980)

Allowing the time from the filing of the indicted case to toll the Speedy Trial Clock would afford the Prosecution and the District Courts the opportunity to circumvent the very purpose of the Speedy Trial Right. As in the case of the Petitioner the District Court has allowed her pretrial Motions to toll more than 200 days on average despite the Petitioner's multiple requests seeking hearings.

### **C. WHY ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT, EXHAUSTED OPTIONS**

Other Courts cannot provide the necessary and requested relief because the lack of jurisdiction and the urgency of the matter. The writ is the only appropriate means for the Pro Se litigant to secure fairness and justice. The District Court failed to protect the Petitioner's constitutional rights. Due to the inability to pay the fee for the Appellate Court's review, the Court of Appeals denied the Petitioner's first habeas corpus petition. The Lower Courts has continually displayed consistent disregard of the rules promulgated by the Supreme Court.<sup>26</sup> Petitioner is a pretrial detainee that is imprisoned in violation of the Constitution, laws, invalid arrest warrant and an invalid indictment. The Petitioner has been caused grave irreparable harm, that is clear, indisputable and continuing. The Petitioner's Fourth, Fifth and Sixth Amendment rights have been violated throughout the pending criminal matters.

The Petitioner has exhausted all available remedies available within the Lower Courts. The Petitioner has filed multiple Motions For Release and filed an Appeal on the Motions for Release. However, Chief Judge Timothy C. Batten has deprived the Petitioner of the right to proceed with those appeals by delaying the determination of the Motion to Proceed In Forma Pauperis which was filed on December 27, 2024. As of filing this petition, there has been no

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<sup>26</sup>See: *La Buy v. Howes Leather Co.*, 352 U.S. 249 (1957)

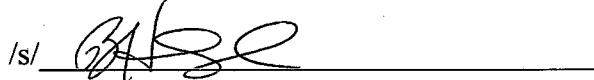
determination on that motion and the Petitioner has requested expedited review. The very nature of the Writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected.<sup>27</sup>

## CONCLUSION

The Petitioner believes that these actions, if proven to be unlawful, not only violate the Petitioner's constitutional rights but also contravene the principles of justice and fairness that underpin our legal system. Therefore, the petition for a Writ of Habeas Corpus should be granted. The Petitioner prays that this Court orders:

1. The Petitioner's immediate release on her own recognizance with or without conditions; or
2. This Honorable Court order any other remedy that is court finds just and fair.

Respectfully submitted, without recourse.

/s/ 

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<sup>27</sup>See: *Harris v. Nelson*, 394 U.S. 286; 89 S. Ct. 1082; 22 L.Ed. 2D 281 (1969)