

ORIGINAL

No. _____

24-7320

FILED

MAR 18 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

LUIS RAUL VICENTE FONSECA — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Luis Raul Vicente Fonseca

(Your Name)

Reg. No. 20770-104

FCI Yazoo City, Low I

(Address)

P.O. Box 5000

Yazoo City, MS 39194-5000

(City, State, Zip Code)

Not Available

(Phone Number)

QUESTION(S) PRESENTED

- (1) U.S. Constitution violation by depriving Petitioner's rights contained in Amendment IV; V and VI.
- (2) Is a district court able, without invoking 18 U.S.C. §3174 (Judicial Emergency and Implementation), toll the speedy trial period finding good cause under 18 U.S.C. §3161(h)(7)(A) as Southern District of Florida did during COVID-19 pandemic emergency and the Court of Appeals for the Eleventh Circuit agrees with?
- (3) What if the period of delay that has been excluded to comply with an Administrative Order, is not set forth in the record of the case just as the order provides?

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:

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A 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☒ is unpublished.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 B 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☒ is unpublished.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☐ is unpublished.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

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 02/05/2025.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution:

Amendment IV.: Protection from unreasonable search and seizure.

"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized."

Amendment V.: Provisions concerning prosecution and due process of law.

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, ..., nor be deprived of life, liberty, or property, without due process of law,..."

Amendment VI.: Rights of accused in criminal prosecutions.

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, ..., and to have the Assistance of Counsel for his defense."

Statutory Provisions:

Speedy Trial Act (18 U.S.C. §3161 et seq.)

STATEMENT OF THE CASE

On December 11, 2019, at MIA customs the Petitioner and his wife were subjected to a warrantless unreasonable search and seizure of their four cellphones and a tablet that were taken to search digital information, in violation of U.S. Const. Amend. IV. Under Fourth Amendment, breaches of privacy are complete at moment of illicit intrusion, whatever use may or may not later be made of their fruits. *United States v. Balsys*, 524 U.S. 666. The Petitioner and his wife left the airport deprived of their property in violation of U.S. Const. Amend. V.

On December 13, 2019, the Petitioner was arrested and incarcerated. On December 19, 2019, the Petitioner was indicted charging him for violation of 18 U.S.C. §2252(a)(4)(B), punishable under Id. §2252(b)(2). According to the government the speedy trial clock began to run the next day, December 20, 2019, and stopped on February 23, 2020, marking 39 days.

On January 27, 2020, the district court set trial for March 2, 2020, outside the prescribed speedy trial period without performing the requisite balancing test in violation of the Act, and dismissal of indictment was required. Immediately after, on February 24, 2020, the district court granted a 78-day "ends of justice" continuance without findings supported by the record to justify such a continuance requested by Petitioner's counsel solely for the purpose of delay which he knew was totally frivolous and without merit. Thus, the Act was already violated when on March 16, 2020, the First Administrative Order suspending Trials was enacted. *Zedner v. United States*, 547 U.S. 489.

On February 18, 2021, an untimely superseding indictment was filed charging the Petitioner for violation of 18 U.S.C. §2252(a)(1) Count 1 and 18 U.S.C. §2252(a)(4)(B) and (b)(2) Count 2. Such an indictment has provoked an egregious actual

prejudice.

On July 30, 2021, the Petitioner, pro se, filed a motion to dismiss the case based on the Speedy Trial Act violation, specifically, 18 U.S.C. §3161(c)(1) & (b) and sanctioned under 18 U.S.C. §3162(a)(1) & (a)(2) respectively.

On August 24, 2021, the district court denied dismissal without verifying by itself the violation of the Speedy Trial Act, which was a fatal error.

On August 29, 2022, the two day trial commenced 32 1/2 months after the original indictment in an utter violation of the constitutional right to a speedy trial contained in the U.S. Const. Amend. VI. *Doggett v. United States*, 505 U.S. 647.

REASONS FOR GRANTING THE PETITION

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

This Court serves as the court of last resort for cases from the federal system. This Court is the ultimate interpreter of the Constitution and the federal statutes. This Court reviews the decisions of the U.S. district courts and circuit courts of appeals.

Both the district court and the Court of Appeals for the 11th Circuit have refused to examine the record to see if the Petitioner was indicted within the requisite number of days, which has resulted in a refusal to enforce U.S. Const. Amend. VI and the Speedy Trial Act. Courts must ensure that U.S. Constitution rights of all individuals are protected. In this case, both courts failed to do it.

As neither the district court nor the Court of Appeals for the 11th Circuit have examined timeliness of the superseding indictment, then only this Court is able to do it.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

R. J. Mason

Date: _____