

05-5992 ZEDNER V. UNITED STATES

DECISION BELOW:401 F3d 36

LOWER COURT CASE NUMBER: 04-0821

QUESTIONS PRESENTED:

The Speedy Trial Act of 1974, as amended, 18 U.S.C. §§ 3161-3174 (West 2005), requires the government to bring a criminal defendant who pleads not guilty to trial within 70 days, excluding certain specified periods. 18 U.S.C. § 3161(c)(1) & (h). If this time limit is exceeded, the "indictment shall be dismissed on motion of the defendant." 18 U.S.C. § 3162(a)(2). Dismissal may be either "with or without prejudice." 18 U.S.C. § 3162 (a)(2). The Act specifies only one way in which a defendant may waive this right to dismissal, i.e. by not moving to dismiss before trial. 18 U.S.C. § 3162 (a)(2) .

This case presents two questions that divide the courts of appeals:

1. Whether, in light of the statute's text and Congress's goal of protecting the public interest in prompt criminal trials, the requirements of the Speedy Trial Act may be waived only in the limited circumstances mentioned in the statute, the issue left open in *New York v. Hill*, 528 U.S. 110, 117 n.2 (2000).
2. Whether a violation of the Speedy Trial Act's 70-day time limit for bringing a defendant to trial is subject to harmless-error analysis, despite the statute's mandatory language stating that, in the event of a violation, the "indictment shall be dismissed. "

CERT. GRANTED 1/6/2006