

ORIGINAL

No 26-5612

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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

SHAWN JONES

Petitioner

V.

TOM WATSON

Respondent

ON PETITION FOR WRIT OF CERTIORARI TO
THE SIXTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

774-706 SHAWN JONES Pro se
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QUESTION PRESENTED

The Petitioner SHAWN Lamar JONES contends that the district court erred by failing to dismiss his indictment pursuant to the speedy trial Act, 18 U.S. 3161-3174. The district court made insufficient findings as to the December 2, 2019 Continuance. This stems from the direct and proximate result of the trial court ordering a continuance on its own accord, and not giving any Reason Justifying the continuance. The Sixth Circuit relied upon the state court's statement of the facts on direct appeal, but significantly misstated even that slanted version of the fact. The case thus presents the following question.

Did the sixth circuit err in deferring to the state court finding that MR. JONES speedy trial Act was not violated by the trial Judge ordering a continuance on its own accord, and not given any Reason Justifying the continuance. The sixth circuit decision was based on a flagrant misreading of the trial record.

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

SHAWN JONES

TOM WATSON

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PETITION FOR WRIT OF CERTIORARI TO THE OHIO SUPREME COURT

The Petitioner, SHAWN JONES, respectfully prays that a writ of certiorari issue to review the Judgment and opinion of the sixth circuit court of appeals.

OPINION BELOW

The sixth circuit court of appeals affirmed petitioner's conviction in its case NO. 25-3970. The opinion is unpublished, and is reprinted in the appendix to this petition at page 1a, infra. The order of the sixth circuit court of appeals denying rehearing is reprinted in the appendix to this petition at page #1

JURISDICTION

The original opinion of the sixth circuit court of Appeals was entered April 17, 2026. A timely motion to that court for rehearing was overruled on may 20, 2026.

The Jurisdiction of this court is invoked under 28 U.S.C. 1254.

STATUTORY AND CONSTITUTION PROVISIONS INVOLVED

The following statutory and constitutional provisions are involved in this case.

U.S. CONST., AMEND. VI

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; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. CONST., AMEND. XIV

Section 1. All persons born or naturalized in the United States, and subject to the Jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any Law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of Life, Liberty, or property, without due process of Law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. 2254

(a) The supreme court, a Justice thereof, a circuit Judge, OR a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the Judgment of a state court only on the ground that he is in custody in violation of the Constitution or Laws or treaties of the United States.

(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the Judgment of a state court shall not be granted unless it appears that --

(A) The applicant has exhausted the remedies available in the courts of the state;
OR

(B)(i) There is an absence of available state corrective process; OR

(ii) Circumstances exist that render such process ineffective to protect the rights of the applicant.

(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the state.

(3) A state shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the state, through counsel, expressly waives the requirement.

(c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the state, within the meaning of this section, if he has the right under the law of the state to raise, by any available procedure, the question presented.

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the Judgment of a state court shall not be granted with respect to any claim that was adjudicated on the merits in state court proceedings unless the adjudication of the claim--

(1) Resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the supreme court of the United States; or

(2) Resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding.

(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the Judgment of a state court, a determination of a factual issue made by a state court shall be presumed to be correct. The applicant

shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

(2) If the applicant has failed to develop the factual basis of a claim in state court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that--

(A) the claim relies on--

(i) a new rule of constitutional law, made retroactive to case on collateral review by the Supreme Court, that was previously unavailable; or

(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(f) If the applicant challenges the sufficiency of the evidence adduced in such state court proceeding to support the state court's determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the state shall produce such part of the record and the federal court shall direct the state to do so by order directed to an appropriate state official.

If the state cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the state court's factual determination.

(g) A copy of the official records of the state court, duly certified by the clerk of such court to be a true and correct copy of a finding, Judicial opinion, or other reliable written indicia showing such a factual determination by the state court shall be admissible in the federal court proceeding.

(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

(i) The ineffectiveness or incompetence of counsel during federal or state collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.

STATEMENT OF THE CASE

The petitioner was involved in a four-year relationship with Precious Hardaway, the mother of child "C.M." The petitioner and hardaway had met on valentine's day of 2015 and had a child together in 2017 who lived with hardaway. On march 7, 2019 (TTpp. 390) hardaway and C.M. became involved in an argument because hardaway was angry at C.M. for striking her younger sister (TTp. 389). The petitioner was present in the home at the time and was admonished by hardaway for trying to alleviate tensions (TTp. 390). The confrontation between Mother hardaway and C.M. continued in C.M. bedroom where Mother proceeded to tell C.M. that she will fuck her up behind hitting her sister for no reason, and also cancel her birthday party which was scheduled for the next day (TTpp. 415-417). Hardaway had also contacted C.M. father during the midst of the exchange to come get her (TTp. 393). As the conflict between mother and C.M. continued, hardaway testified that C.M. disclosed to her that she had been the victim of sexual abuse from the Petitioner (TTpp. 415-417).

Hardaway did not tell the petitioner of the disclosure made by C.M. on that day, she instead testified that she reached out to contact the petitioner who ended up spending the next three nights sleeping in her house and in the same bed (TTpp. 421-423). Hardaway also testified that she told police when reporting the subject matter allegations that the petitioner was known to keep a firearm inside his vehicle (TTpp. 424-425).

Upon physical examination of C.M. by Dr. Friedman, there were no objective findings of any sexual abuse. There were no findings of any physical trauma and

all findings were non-specific. (TTpp. 486-487, 496). Dr. Friedman was not asked by anyone, however, as to whether or not there is an increased Likelihood of objective physical findings in the instance of alleged repeated sexual assault over a lengthy period of time.

The Petitioner was arrested on 3/12/2019. The Petitioner was originally indicted on 3/21/2019. The Petitioner was not able to post bond and remained in Jail for 587 day until the case was finally tried to a Jury on October 20, 2020. The Petitioner was convicted on sex related charges, and weapon related charges. On November 25, 2020, the Petitioner through counsel, filed a notice of appeal. Within the Petitioner assignment of error the Petitioner asserted (1) The trial court erred by denying Petitioner motion to dismiss based on violation of the speedy trial Act, and the sixth Amendment right to a speedy trial. The state filed an opposition brief and the Petitioner filed a reply. On September 23, 2021, the appellate court affirmed the Petitioner's conviction. The Petitioner through counsel, filed a notice of appeal to the Ohio Supreme Court on November 8, 2021. The state waived filing a response, the Ohio Supreme Court declined to accept Jurisdiction on January 18, 2022. Jones moved for Reconsideration of the declination of Jurisdiction on January 27, 2022. The Ohio Supreme court denied that motion on March 29, 2022.

On December 21, 2021, while his direct appeal was pending, Jones filed a pro se petition for post-conviction relief in the trial court. The state filed a response and motion for Summary Judgment. The trial court denied Jones post-conviction petition on February 10, 2022. On November 30, 2022 Jones filed a pro se 28 U.S.C. 2254 habeas petition raising a single ground for relief: (1) Violation of the speed trial Act, and violation of the sixth amendment right to a speedy trial.

The Petitioner habeas petition was denied on November 4, 2025 Jones filed a motion for rehearing on April 17, 2026, that motion was denied on May 20, 2026.

Reviewing the denial of habeas corpus relief by the district court, the sixth circuit court of appeals found that they see no evidence of prejudice to JONES. The district court disregarded the Petitioner speedy trial Act grounds for relief, on appeal, Petitioner claimed, inter alia, that the district erred in denying his motions to dismiss for violation of the speedy trial Act, 18 U.S.C. 3161 and the Sixth Amendment right to a speedy trial. The speed trial Act of 1974 18 U.S.C.S. 3161 requires that a criminal defendant's trial commence within 70 days after he is charged or makes an initial appearance, whichever is later, 3161(C)(1), and entitles him to dismissal of the charges if that deadline is not met 18 U.S.C.S. 3162(a)(2). Many states have provisions to the same effect, and some states prescribe numerical time limits. The Petitioner state prescribe a 90 day limit. 18 U.S.C.S. 3161(h)(7) provides that delays resulting from a continuance granted by any Judge may be excluded, but only if the Judge finds that the ends of Justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial and records the findings.

There was a "trial" set in JONES case for December 2, 2019. The Judge continued the Petitioner trial until February 18, 2020, a 78 day continuance, Please see attached exhibit # 1 (Court docket). "The continuance was at the Request of the court," Reason for the continuance states "Court ~~was~~ unavailable to start trial, with agreement from both parties, the trial date was continued until the first available date of said parties." As it's assertion that all the parties agreed was factually incorrect, because the Petitioner was not present in the court room, and would not have

agreed without the court stating its Reason for the lengthy continuance. The Petitioner had already demanded his request for a speedy trial back on August, 26, 2019 Please see Attached exhibit #2 (TTP- 84-83).

A trial should put its findings regarding an end-of-Justice continuance on the record at least by the time it rules on the Petitioner motion to dismiss for a speedy trial violation. As of the October 19, 2020 speedy trial hearing, Please see Attached exhibit #3 (TTPp. 136-137-138). The government blatantly ignored and disregarded a 78 day trial continuance on December 2, 2019 to February 18, 2020. The Judge Daniel Gaul Placed his findings at the speedy trial hearing of October 19, 2020. There was no Reasonable explanation of the Judge Reason for granting the 78 day continuance which Required an ends-of-Justice Reasoning, and findings of facts.

18 U.S.C.S. 3161(h)(7) Requires a district court to show its work, before granting an ends-of-Justice continuance. The speedy trial Act, 18 U.S.C.S. 3161-3174, Requires express findings when granting an ends-of-Justice continuance, and without on the record findings, there can be no exclusion Pursuant to 3161(h)(7). Nowhere in either the December 2, 2019 order which directed entry of the continuance, or the October 19, 2020 order, which denied Petitioner's motion to dismiss the indictment, does the district court represent that it had made the requisite findings PRIOR to granting the continuance. Indeed, the December 2, 2019 order nowhere states that the basis for granting the continuance that the continuance served the ends-of-Justice.

In view of the Requirements of the Act, the court findings as to the exclusion of the continuance were insufficient. The statement gives

no indication "why" the court became unavailable, or "why" the parties was unavailable on december 2, 2019. Instead, the court erroneously Relied upon conclusory statements lacking both detail and support in granting the continuance. Court being unavailable is not one of the factors supporting exclusion provided in section 3161(h)(8)(B). By failing to make a record upon which adequate findings could be based, the district court failed to protect the public's interest and the defendant in a speedy trial as Required by the speedy trial Act.

The continuance on december 2, 2019 to february 18, 2020 could not serve to toll any of the Petitioner speedy trial time. The Eight district court of appeals tolling of 78 days due to the court unavailability on december 2, 2019 is clearly "Contrary" to the court's controlling decision in Zedner v. United states, 547 U.S. 489, and clearly is a violation of the Petitioner speedy trial Act.

Please see United states v. Crawford, 982 F.2d 199, (6th cir, 1993), Boate v. United states, 559 U.S. 196, United states v. Toombs, 574 F.3d 1262, 1271, (10th cir. ²⁰⁰⁹). And United states v. Ammar, 842 F.3d 1203. Because that time should not have been assessed against the petitioner his 90 day speedy trial 14th Amendment Due Process Right as guaranteed by the state and also the Respective constitution of both state of Ohio and the United states of America was undoubtedly violated. The Petitioner trial on the charges did not occur within the timeframe established by the speedy trial Act, 18 U.S.C. 3161-3174.

The trial court only credited the Petitioner with 55 days towards his speedy trial. The 55 days that was given, along with the 78 days between december, 2 2019, and february 18, 2020 brings the number of days to be credited against the Petitioner speedy trial to 151 days. This exceeds the 90 day time Limitation.

The fact that most of the delay in this case were attributable to the Petitioner. Defense Responsibility for the continuance does not unwind speedy trial Act violation. The speedy trial Act was intended not only to protect the interest of the defendant's, but was also "designed with the Public interest firmly in mind." Zedner, 547 U.S. at 501. The ends-of-Justice Provision expressly mandates that the district court articulate its reasons for finding that the ends-of-Justice served by the granting of such continuance outweigh the best interest of the Public and the defendant in a speedy trial. 18 U.S.C. 3161(h)(7)(A). See Zedner, 547 U.S. at 493-95, 507 (Concluding a violation of the speedy trial Act occurred when the district court failed to make adequate factual findings in granting an ends-of-Justice continuance requested by the defendant).

REASONS FOR GRANTING THE WRIT

I. THE SIXTH CIRCUITS MISAPPLICATION OF THE SPEEDY TRIAL ACT STANDARD OF ZEDNER WARRANTS THIS COURT ATTENTION.

The Sixth circuit's opinion did not consider the Petitioner's speed trial Act, and misapplied the Zedner v. United States, 547, U.S. 489, 507, 126 S. Ct. 1996, 164 L. Ed 2d 749 (2006) Test for speedy trial Act violations in two important ways. First, the panel opinion is based on legal error. The Magistrate Judge Carmen E. Henderson states on page (12-13) Please see Attached exhibit #4, of the Report and Recommendation, as to the december 2, 2019 trial Continuance, the Record indicates that while the trial was continued until february 18, 2020 because

(13)

of the court unavailability, Petitioner agreed to this continuance. Zedner, 547 U.S. at 501. The ends-of-Justice determination is, therefore, entrusted to the court, not the parties, and the parties cannot stipulate to its satisfaction as a substitute for the district court's finding to that effect. Zedner held that agreement by the parties cannot be the only basis for granting a continuance. A finding that a continuance is justified solely because the parties agreed to it is not a proper ends-of-Justice finding. The Petitioner was also not present in the court room on December 2, 2019 trial hearing, there is no record of what took place, or what was said to continue the trial. This is a violation of the Petitioner 14th Amendment due process right, and also an abuse of discretion on the district court.

Second, the district Judge abused its discretion and violated the Petitioner speedy trial Act when he granted the continuance on December 2, 2019 without no "reasonable justification" and "findings of facts." Sanction for violation of the Act is mandatory dismissal of the indictment 18 U.S.C. 3161(a)(2).

These factual issues do not require the attention of this court. What does merit review is the emerging practice of the Sixth Circuit of ignoring evidence while not performing speedy trial Act analysis.

The state supreme court determination was unreasonable insofar as it failed to evaluate the totality of the available mitigation evidence, both that adduced at the speedy trial hearing, and the evidence adduced in the habeas proceeding in reweighing it against the evidence in aggravation.

Because the sixth circuit court of appeals has truncated the scope of Zedner v. United States, 547 U.S. 489 speedy trial Act Review, this court must grant Certiorari.

II. THE DECISION OF THE SIXTH CIRCUIT IS IN CONFLICT WITH DECISIONS OF OTHER CIRCUITS.

In the closely analogous case of United States v. Toombs, 574 F.3d 1262, 1271, (10th Cir. 2009). The court confronted a situation where MR. Toombs did not show Prejudice Like MR. JONES case. Under the Zedner standard, the federal appeals court in toombs, found that by failing to make a record upon which adequate findings could be based, the district court failed to protect the Public's interest in a speedy trial as required by the speedy trial Act, and the clear application of that Act necessitated reversal of the district court's denial of the motion to dismiss. The record, which includes the oral and written statements of both the district court and the moving party, must contain an explanation of why the mere occurrence of the event identified by the party as necessitating the continuance results in the need for additional time. The district court failed to inquire about or consider whether the respective events at issue necessarily required additional preparation, the conviction was reversed. See also United States v. Crawford, 982, F.2d 199, (6th Cir. 1993) where the court also found that failure of the Judge granting a continuance without any "Reasonable Explanation" violate the speedy trial Act.

These cases illustrate the fact that the Sixth circuit court of Appeals is out of step with this court and with other circuits in its consideration of the Zedner v. United States, 547 U.S. 489. speedy trial Act. Certiorari should be Granted to correct this error.

CONCLUSION

For the reasons, a writ of certiorari should issue to review the Judgment and opinion of the sixth circuit court of Appeals.

Respectfully Submitted

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