

**08-728 BLOATE V. UNITED STATES**

DECISION BELOW:534 F.3d 893

LOWER COURT CASE NUMBER: 07-2357

**QUESTIONS PRESENTED:**

The Speedy Trial Act, 18 U.S.C. § 3161 et seq., requires that a criminal defendant be tried within 70 days of indictment or the defendant's first appearance in court, whichever is later. In calculating the 70-day period, 18 U.S.C. § 3161(h)(1) automatically excludes "delay resulting from other proceedings concerning the defendant, including but not limited to \* \* \* (D) delay resulting from any pretrial motion, from the *filing* of the motion through the conclusion of the hearing on, or other prompt *disposition* of, such motion" (emphasis added). The question presented here is:

Whether time granted to *prepare* pretrial motions is excludable under § 3161(h)(1). As the Eighth Circuit explicitly acknowledged below, this question has divided the courts of appeals. The Fourth and Sixth Circuits have answered it in the negative; the Eighth Circuit and seven other circuits have answered it in the affirmative.

CERT. GRANTED 4/20/2009