

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