

# Waiver of a right to a speedy trial

Contributed by Steve

Zender v. United States, Opinion No. 05-5992 Argued April 18, 2006  
Decided June 5, 2006

The United States Supreme Court was asked to determine if a defendant may prospectively waive his right to a speedy trial pursuant to the Speedy Trial Act of 1974. {mosloadposition advert1}

In a unanimous opinion written by Justice Alito, with a concurrence in part and a concurrence in the judgment written by Justice Scalia, the Supreme Court held that a defendant may not prospectively waive his rights to a speedy trial under the Speedy Trial Act of 1974.

Additionally, when a district court makes no findings on the record in support of a continuance, subsequent harmless-error review is not appropriate.

Defendant Jacob Zedner was indicted on charges of attempting to open bank accounts using counterfeit United States bonds. Zedner's trial did not commence until more than seven years after his indictment, after he had requested several continuances.

After his third continuance request, the United States District Court for the Eastern District of New York suggested that Zedner waive the application of the Speedy Trial Act of 1974 "for all time" and provided a form for Zedner to sign to that effect.

Zedner was convicted and sentenced to 63 months in prison. Zedner appealed to the United States Court of Appeals for the Second Circuit. The Court of Appeals affirmed the conviction of the District Court. Although the Court of Appeals acknowledged that a defendant's waiver may be ineffective because of the public interest protected by compliance with the Act, but, it found an exception where the defendant causes or contributes to the delay.

The United States Supreme Court reversed and remanded the holding of the Court of Appeals, holding that a defendant may not prospectively waive his rights to a speedy trial under the Speedy Trial Act. Further still, the Supreme Court held that Zedner was not judicially estopped from challenging the excludability of a 1997 continuance under the Act.

Finally, the Supreme Court held that when a district court makes no findings on the record in support of a continuance under the act, subsequent harmless-error review is not appropriate.

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