

DISTRICT COURT OF THE VIRGIN ISLANDS, APPELLATE DIVISION

In re Moses

48 V.I. 479 (D.V.I. App. Div. 2006) · Decided August 29, 2006

SUMMARY

Samuel Moses petitioned for a writ of mandamus directing dismissal of long-pending criminal charges based on unconstitutional delay and want of prosecution. The court applied the Barker v. Wingo speedy-trial factors and Federal Rule of Criminal Procedure 48(b)(3), concluding that the prolonged delay, inadequate prosecutorial and judicial action, Moses’s repeated assertion of his rights, and resulting prejudice warranted relief. The court granted the writ and directed the Superior Court to dismiss the case with prejudice.

CASE DETAILS

COURT	District Court of the Virgin Islands, Appellate Division
WRITING FOR THE COURT	Croix; Finch; Gomez; Islands; Steele
JURISDICTION	USA
DECIDED	August 29, 2006
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of mandamus directing the Superior Court to dismiss pending criminal charges for want of prosecution or unconstitutional delay.
STANDARD OF REVIEW	Mandamus is an extraordinary remedy available only in exceptional circumstances amounting to a judicial usurpation of power. The petitioner must demonstrate that no other adequate means exist to obtain relief and that the right to the writ is clear and indisputable.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status not expressly stated in the opinion.
PARTIES	Samuel Moses v. Government of the Virgin Islands, Superior Court of the Virgin Islands

TOPICS

- speedy trial
- criminal procedure
- appellate procedure
- due process
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Moses had no other adequate means of relief and a clear and indisputable right to mandamus because the prolonged failure to bring him to trial violated the Sixth Amendment speedy-trial guarantee.
2. Whether the unnecessary delay independently warranted dismissal under Federal Rule of Criminal Procedure 48(b)(3).
3. Whether the Appellate Division had authority to issue mandamus to judges of the Superior Court.

HOLDINGS

1. The Appellate Division has authority to consider and determine petitions for writs of mandamus directed to Superior Court judges.
2. Moses established the prerequisites for mandamus because he had no other adequate means to obtain relief and possessed a clear and indisputable right to relief.
3. The more-than-six-year delay in bringing Moses to trial violated his Sixth Amendment right to a speedy trial and warranted dismissal with prejudice.
4. Unnecessary delay in bringing a defendant to trial may warrant dismissal under Federal Rule of Criminal Procedure 48(b)(3), which imposes a stricter standard of tolerable delay than the Sixth Amendment.

KEY QUOTATIONS

“It is well recognized that a writ of mandamus is an extraordinary remedy, only to be issued in “exceptional circumstances amounting to a judicial ‘usurpation of power.’”” (485)

“For a writ of mandamus to be issued, the petitioner must show “no other adequate means to attain the desired relief, and ... a right to the writ [that] is clear and indisputable.”” (486)

“The government has not met its constitutional duty to make a diligent, good-faith effort to bring him to trial.” (490)

“Accordingly, we will issue a writ directing the Superior Court to dismiss Moses’ case with prejudice.” (491)

FACTUAL BACKGROUND

The Government filed an information charging Moses with two counts of first-degree rape and one count of aggravated assault and battery on August 15, 2000. More than six years later, he still had not been brought to trial, and several motions—including a motion to dismiss for unconstitutional delay and want of prosecution—remained unresolved. The case was repeatedly postponed, partly in connection with delayed FBI laboratory testing, and was transferred among judges; Moses was subject to significant travel restrictions and recurring probation check-ins that affected his education, employment, finances, family life, and psychological well-being.

PROCEDURAL HISTORY

Moses was charged by information in the Superior Court on August 15, 2000, but had not been tried after more than six years. He previously sought mandamus relief, which the Appellate Division denied without prejudice on December 16, 2005, while directing the Superior Court to resolve pending motions within sixty days. After the Superior Court failed to resolve the motions or set a trial date, Moses renewed his mandamus petition. The Appellate Division granted the writ and directed dismissal with prejudice.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The court issued a writ of mandamus directing the Superior Court to dismiss Moses's criminal case with prejudice.

CASES CITED

- In re Richards, 213 F.3d 773, 780, 42 V.I. 469 (3d Cir. 2000)
- Dawsey v. Government of the V.I., 931 F. Supp. 397, 400-01, 34 V.I. 174 (D.V.I. App. Div. 1996), aff'd, 106 F.3d 384 (3d Cir. 1996)
- Citibank, N.A. v. Fullam, 580 F.2d 82, 86 (3d Cir. 1978)
- Will v. United States, 389 U.S. 90, 95, 88 S. Ct. 269, 19 L. Ed. 2d 305 (1967)
- In re Patenaude, 210 F.3d 135, 141 (3d Cir. 2000)
- Barker v. Wingo, 407 U.S. 514, 515, 530-35, 92 S. Ct. 2182, 33 L. Ed. 2d 101 (1972)
- Government of the Virgin Islands v. Pemberton, 813 F.2d 626 (3d Cir. 1987)
- Dreyer v. United States, 533 F.2d 112, 114-17 (3d Cir. 1976)
- United States v. Williams, 782 F.2d 1462, 1465 (9th Cir. 1985)
- United States v. Moore, 414 U.S. 25-27, 94 S. Ct. 188, 38 L. Ed. 2d 183 (1973)
- Doggett v. United States, 505 U.S. 647, 652 n.1, 112 S. Ct. 2686, 120 L. Ed. 2d 520 (1992)
- Moore v. Arizona, 414 U.S. 25, 26-27, 94 S. Ct. 188, 38 L. Ed. 2d 183 (1973)
- Smith v. Hooey, 393 U.S. 374, 383, 89 S. Ct. 575, 21 L. Ed. 2d 607 (1969)
- United States v. Dreyer, 533 F.2d 112, 114-15 (3d Cir. 1976)
- United States v. Zabady, 546 F. Supp. 35, 38 (M.D. Pa. 1982)
- United States v. Watkins, 339 F.3d 167, 180 (3d Cir. 2003) (Nygaard, J., concurring)
- United States v. Judge, 425 F. Supp. 499, 503 (D. Mass. 1976)
- United States v. Dowl, 394 F. Supp. 1250, 1256 (D. Minn. 1975)
- United States v. Goodson, 204 F.3d 508, 515 (4th Cir. 2000)
- Government of the Virgin Islands v. King, 25 V.I. 114, 117 (Terr. Ct. 1990)

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