

Syllabus

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SUPREME COURT OF THE UNITED STATES

Syllabus

MONKEY *v.* UNITED STATES**CERTIORARI TO THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA**

No. 09–21. Decided May 12, 2020

The United States instituted prosecution against petitioner in the Federal District Court with a criminal information that did not cite the allegedly violated statutes or regulations. Petitioner asked the District Court to order the United States to correct this pleading failure, but the District Court responded by invoking Federal Rule of Criminal Procedure 62 and suspending the pleading requirement.

Held: The District Court erred in invoking Rule 62. Pp. 1–2.

(a) Rule 62 is limited by two major requirements, each of which comprises subsidiary conditions. Rule 62(b) requires that advance notice be given to the parties before any suspension of the Federal Rules and that they have the opportunity to be heard; Rule 62(a) requires that a suspension (1) be in the interest of the parties; (2) rectify unfairness or prejudice caused by the application of the rule; (3) not modify the substantive rights of the parties; and (4) not affect a provision amended by this Court. Pp. 1–2.

(b) The record demonstrates that Rule 62(b) notice was not provided by the District Court. P. 2.

(c) The suspension in this case also violated Rule 62(a) because suspension was not in the “interests of justice.” The suspension deprived the defendant of “reasonable certainty, of the nature of the accusation against him, to the end that he may prepare his defense.” *United States v. Simmons*, 96 U. S. 360, 362. It also does not prejudice to the prosecution to merely require they cite the law they are prosecuting under. 4:20–1687, reversed and remanded.

STEWART, J., delivered the opinion for a unanimous Court.

Opinion of the Court

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SUPREME COURT OF THE UNITED STATES

No. 09–21

MONKEY2747, PETITIONER *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF COLUMBIA

[May 12, 2020]

JUSTICE STEWART delivered the opinion of the Court.

This matter begins in the District Court. The government filed a criminal information that did not mention any statute or regulation violated. The defense moved for the court to correct the deficiency. Instead of directing the government to correct the deficiency, the court decided to suspend the underlying rule. We granted certiorari.

First, we will turn to Federal Rule of Criminal Procedure 62. Rule 62 was created by this Court to stop the unnecessary delay of cases under rules that cannot be applied to ROBLOX. It allows a District Court to suspend the normal Rules of Procedure.

This power is very significant, so the Court installed various conditions. Any suspension requires (1) it to be in the interests of the parties that the provision not apply, (2) the application of the suspended rule to be unfair or cause prejudice, (3) the substantive rights of any party must not be modified by the suspension and (4) the provision must not have been subject to amendment by this Court. Fed. R. Crim. P. 62(a). The Rule also requires that notice be given to both parties and that they have the opportunity to be heard. Fed. R. Crim. P. 62(b).

Opinion of the Court

A quick review of the transcript shows that no opportunity was given. The order was entered *sua sponte* and no party was consulted or notified before it was entered. This fails the requirement of Rule 62(b).

We will turn next to whether the requirements of Rule 62(a) were met. Rule 62(a)(1) only allows the suspension of a rule where it is in the “interests of justice” for the rule to be suspended. “[I]nterests of justice is a rather elusive concept.” *Morales-Fernandez v. INS*, 418 F. 3d 1116, 1119–20 (CA10 2005) (quotations omitted). However, in this matter the interests of justice are strongly in favor of the rule not being suspended. The language used by the complaint is very broad and multiple criminal offenses could be made from the facts alleged. The suspension of this rule deprives the defendant of “reasonable certainty, of the nature of the accusation against him, to the end that he may prepare his defense, and plead the judgment as a bar to any subsequent prosecution for the same offence.” *United States v. Simmons*, 96 U. S. 360, 362 (1877). “[T]he substantial safeguards to those charged with serious crimes cannot be eradicated under the guise of technical departures from the rules.” *Smith v. United States*, 360 U. S. 1, 9 (1959). The same logic follows for Rule 62(a)(2), as it is not unfair, nor does it prejudice the rights of the prosecution to merely require that the law allegedly violated be cited in the information.

The judgment of the District Court is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.