

SUPREME COURT OF THE UNITED STATES

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ALEX J. CABOT,)	
)	
Petitioner,)	
v.)	No. 09-41
)	
UNITED STATES,)	
)	
Respondent.)	
)	
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Place: Washington, D.C.

Date: July 20th, 2020

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Washington, D.C.
Sunday, 20th July, 2020

The above-entitled matter came on for oral argument before the Supreme Court of the United States at 5:00 p.m.

APPEARANCES:

ALEX J. CABOT, Washington D.C.;

on behalf of the Petitioner.

TRAVIS KABOB, Department of Justice, Washington D.C.;

on behalf of the Respondents.

Chief Justice Holmes: We'll hear arguments this afternoon in No. 09-47, Cabot v. United States. Mr. Cabot, you may begin.

Cabot: Thank your Your Honor,

Cabot: Today I present the case before this court with the primary objective of having the court side with me and overturning my "conviction" and asking the court to issue whatever writs necessary to right the unconscionable and obvious wrong.

The then United States Attorney, Luxciety, was not a Senate confirmed official pursuant to 28 U.S. Code § 541(a). All prosecutions launched in the name of the United States are in the name of the United States Attorney, not the Attorney General. Now the respondent's argue that the United States Attorney was a Special Attorney designee per 28 U.S. Code § 543(a). However this section states: "(a)The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires, including the appointment of qualified tribal prosecutors and other qualified attorneys to assist in prosecuting Federal offenses committed in Indian country."

"Appoint" and "assist". Assistant the United States Attorney, not become one. The argument is further discredited when there is no United States Attorney. Respondent has provided NO evidence whatsoever to support the fact that the then AG even did designated Luxciety as a Special Attorney. A privatized prosecution was launched against myself and it is blatantly obvious, the court should remedy the damages in the only way possible. By overturning it.

A proper affidavit was not provided. A mere conclusion based SOLELY on the law does not satisfy the requirement of probable cause to issue an arrest warrant or summons to then compel attendance in front of a judge to face the alleged charges. Giordenello v. United States, 357 U.S. 480 (1958). The defendant's conviction was struck down as a result of the failure to provide probable cause. A prosecutor simply cannot aid or be an affiant, witness or anything of the sort without jeopardizing due process rights.

‘[The] appointment of an interested prosecutor creates an appearance of impropriety that diminishes faith in the fairness of the criminal justice system in general’ Young v. United States ex rel. Vuitton et Fils SA, 481 US 787, 811 (1987).

Justice Kagan: Are you aware of Public Law 66-15? Or 59-3.

Cabot: You'd have to state their short titles if I were to recall.

Justice Kagan: Alright. I'll do the lifting for you. Respectively, they are the Civil Office Definition Act of 2018 and the Civil Service Reform Act.

You stated in your briefs that it has never been suggested before the “Back to Tradition Act” that the office of the United States Attorney was not Senate confirmed.

However, for over two years, as far as I can tell, there is not a single US Attorney confirmation, presumably because the US Code was repealed.

What do you say to that?

Cabot: There is no indication that the status requiring confirmation for United States Attorney's has been repealed, but instead Attorney General's and President's have instead made singular determinations without any legal basis. In Fact there has been multiple U.S. Attorney nominations of which the Congress have passed.

Justice Butler: How recent?

Cabot: 2018

Justice Kagan: So.. two years like I stated. In fact, not recent.

Counselor, when did your trial occur? Very simple question. Please answer quickly, we do not have much time.

Cabot: In February, 2020

Justice Kagan: The Back to Tradition Act was in effect before then. What relevance does USA confirmation have then in your case? And what do you mean by "privatized prosecution?" Was a business prosecuting you?

Justice Butler: Respondent contends that the Justice Department has been acting under Section 543 of Title 18 where the Attorney General may appoint a "special attorney" in the absence of a United States Attorney (and merely referring to them as United States Attorneys). What do you say to that?

Cabot: A privatised prosecution in the name of the United States of which was illegitimate and from what the Public Law Database stated they recognized the law and put it onto their database March/later. I state what I said before Justice

Now the respondent's argue that the United States Attorney was a Special Attorney designee per 28 U.S. Code § 543(a). However this section states: "(a)The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires, including the appointment of qualified tribal prosecutors and other qualified attorneys to assist in prosecuting Federal offenses committed in Indian country." "Appoint" and "assist". Assistant the United States Attorney, not become one.

Justice Kagan: What does privatized prosecution even mean? I've never heard this term before. And again, what relevance does US Attorney confirmation have in your case if the Back to Tradition Act was in effect months prior to your trial?

Justice Pitney: How can you have a privatised prosecution in the name of the "United States"....? Unless you are implying the United States is a private entity?

Cabot: I apologise to this court, I ask the court to disregard my United States confirmation status argument, I was under the impression the act was

in effect in March 2020. This is a majority mistake and I cannot do anything except apologise.

Justice Kagan: Time will be ending in 3 minutes. I would love an additional 30 minutes of arguing for both sides if Mister Kabob and Mister Cabot accept.

Cabot: I accept.

Kabob: I accept.

Justice Kagan: Mister Cabot, please elaborate about privatized prosecution

Cabot: It would be useless now seeing as I'm disregarding my USA confirmation status argument but if you'd like me to divulge further into it I will

Justice Pitney: for the record... Petitioner is dropping the privatised prosecution element of their case?

Cabot: Correct

Justice Pitney: Can you just name what questions from the petition you are specifically withdrawing.

Cabot: Questions 1, 2, 3, and 5

Justice Butler: You contend that prosecutors cannot have a conflict of interest. How do we determine how much of an interest they can and cannot have considering they inherently possess an interest in ensuring the conviction of defendants they are “appointed” to prosecute? Furthermore, why would prosecutorial conflicts of interest matter, and is there any controlling case law or legislation that prohibits such conflict? @Cabot

Cabot: I assume I state [prosecutors] *can have a conflict of interest. I believe that prosecutors CAN have a conflict of interest and inherently have prosecutorial bias against a defendant. Of course a prosecutor will have an interest in the case and will always have a degree of an personal interest in a case they pursue but their personal interest must not go to a degree of

which the interests of justice are no longer at heart and the prosecution is no longer in the interests of the people. That would be a clear violation of due process, there have always been restrictions of prosecutorial power and prosecutorial offices implement policies in place to prevent it, the court should reaffirm and protect defendant's rights against prosecutorial misconduct of which could lead to eventual unfair due process rights violations.

Justice Kagan: What was the personal bias in your case that you allege?

I couldn't find it in your briefs.

Justice Butler: How the hell is this Court supposed to know where the prosecutor's heart is? And I cannot understand why that matters.

Cabot: I allege the prosecutor had unduly sped up my prosecution by expediting a criminal investigation by the FBI CID as can be seen in my affidavit (investigation report).

Justice Kagan: So you're arguing that your prosecution was too speedy--but at the same time saying it was not speedy enough?

Justice Butler: Now you're arguing the prosecutor sped up the trial proceedings but also invoking your right to speedy trial?

Justice Pitney: I had the exact same question as my colleagues

Justice Kagan: What counts as "unduly" [speeding] up an investigation? Is the mere act that it was fast supposed to convince us that there is impropriety?

Cabot: The prosecutor took on the position as an "investigator" and submitted an investigation report as an affidavit. How a prosecutor can be the affiant/sole investigator and then prosecutorial staffer I cannot understand. That would certainly not be permitted in real life, we stand by the same standards here.

Justice Butler: The prosecutor was the sole investigator and the prosecuting attorney?

Justice Kagan: If a prosecutor and investigator are separate

Cabot: Correct Justice Butler

Justice Kagan: Wouldn't the information available to both of them be the same?

Justice Butler: Also, don't United States Attorneys sometimes have involvement in criminal investigations?

Justice Kagan: Such as grand juries.

Justice Butler: Or even in obtaining warrants.

Cabot: The investigator has a separate job from the prosecutor for a reason, to prevent a conflict of interest and the perception of impropriety.

Justice Kagan: What impropriety?

Cabot: They involve themselves in a prosecutorial capacity, not investigatory.

Justice Kagan: What kind of conflict?

Justice Pitney: Are you arguing that the prosecutor can have no influence over the course of an investigation? Or that an investigator must be a separate person to a prosecutor?

Justice Butler: It seems like you're asking us to draw a line which we simply do not have the tools to do so.

Justice Kagan: It sounds like you may be confusing public defenders with prosecutors. I would understand a conflict of interest if a PD was investigating.

But how is there a conflict when a prosecutor—whose job it is to try cases against alleged criminals—is part of the investigation process?

Cabot: I am arguing prosecutors cannot extend their abilities and exercise them as an investigator and then participate in a prosecution of the same person.

Justice Kagan: Why? We've illustrated how they do so in real life.

Cabot: Grand juries are not recognized in NUSA, they petition for warrants on behalf of the government.

Justice Butler: Usually, prosecutorial conflicts of interests only arise when the prosecutor has a conflict with the State and the individual they're prosecuting, not when they're "biased" or anything akin to that against defendants.

Justice Kagan: So you want us to recognize real life practices—except when it comes to grand juries?

Justice Harlan: Do prosecutors and investigators not essentially have the same end goal, when it is determined that conduct illegal in nature warrants charges to be filed irregardless?

Cabot: Well I cannot ask you to recognize something our Constitution does not Justice Kagan.

Justice Kagan: You just said that real life prosecutors do not do this I gave you a real life example of how they do

How are we supposed to take your own logical framework if we have to disregard everything?

Cabot: Prosecutors have the goal of achieving justice and pursuing justice in the name of the public and their respective state/district. Investigators aid and provide evidence to support that, not partake in it.

Justice Kagan: How about, as Butler mentioned, warrants. Those exist in NUSA.

Justice Butler: Don't investigators often partake in the criminal trial proceedings, whether that be authoring affidavits/dispositions or even offering expert or other testimony during trial?

Cabot: Warrants are presented and provided on behalf of the government. Investigators simply do not have the same powers engraved in law as a prosecutor.

Justice Butler: Obviously they do not have the same prescribed powers, but they share the same goal and work together to achieve such a goal.

Justice Kagan: I continue to fail to see the conflict of interest.

Justice Pitney: 12 minutes remaining.

Cabot: Investigators take part in their capacity as an investigator, prosecutors prosecute in their capacity. They cannot allow both capacities to cross and then state there is NOT ONE hint of impropriety which would jeopardize due process rights. If you allow both capacities to cross, how do you end up differentiating?

Justice Butler: With the wording "speedy trial," does that include pretrial proceedings or just after the commencement of the physical trial?

Cabot: What becomes a part of the capacity of a prosecutor's work, what becomes a part of an investigator's work. Pretrial proceedings as well.

Justice Butler: Per?

Justice Pitney: How does a legal, constitutional investigation become unconstitutional and violate due process? You seem to just be throwing words and hoping it'll stick

Justice Butler: You may answer Justice Pitney's question first.

Cabot: The District Court recognized multiple dismissals, by members of this bar including "pre".

Justice Butler: We aren't bound to District Court decisions

Cabot: An investigation is different from a prosecution. Completely. An investigation finds facts and evidence, a prosecution utilises them.

I do understand stare decisis Justice, those were examples of which you asked for.

It is your decision to decide whether they continue.

Justice Pitney: Was that your answer to my question or a different one?

Cabot: The answer, an investigation and prosecution have different objectives. That should be recognised.

Justice Pitney: I don't think they do? The objective in simple words is to find the truth, and prove it is not? Unless you wish to argue an AUSA doesn't have the same goals as an FBI investigator?

Justice Kagan: Counselor, how would you have us write the opinion in your favor on the issue of prosecutorial conflicts of interest?

Cabot: An investigation provides evidence to proceed with a prosecution. Objectives and goals are different, your honor. One is long term, the other short.

Justice Kagan: How would you have us write the opinion?

Cabot: I would include *Young v. United States ex rel. Vuitton et Fils SA*, 481 US 787, 811 (1987) ruling and expand upon it.

Specifically "[The] Appointment of an interested prosecutor creates an appearance of

impropriety that diminishes faith in the fairness of the criminal justice system in general"

Justice Kagan: Expand on it how?

Cabot: How far impropriety and its appearance extends to, how far a prosecutor can divulge into a case and what becomes too divulged to the point of questionable goals, namely justice for the PEOPLE and not themselves.

Justice Kagan: How far would you have us go? Where do we draw the line? How do we draw the line?

Cabot: The line is drawn by common knowledge and singular interpretation of the word "interested." Interested is defined as "a feeling that accompanies or causes special attention to something or someone: concern. b : something or someone that arouses such attention. c : a quality in a thing or person arousing interest." Per Merriam-Webster.

Justice Kagan: What if they are interested in justice? That falls under the definition.

Cabot: As I stated above, "namely justice for the people" and not themselves.

Justice Kagan: The petitioners time has expired.

Cabot: Thank you for your questions Justices, I yield.

Justice Kagan: Mr. Kabob, you have one hour to present your arguments.

Kabob: Mister Chief Justice and may it please the Court,

If the Court rules in favor of the Petitioner, then two years' worth of cases are considered void. The notion of a prosecutor is unable to serve as an investigator and the prosecutor is nothing short of silly. The Federal Bureau of Investigation has the same intentions of the assigned prosecutor: ensure that justice is upheld. Any argument countering this claim is ridiculous. As Justice Kagan has said, it is unwise to have a Public Defender as an

investigator; they have a potential bias. I believe the Petitioner has forgotten a key element when composing their argument: this is a game. It is also rather educational. Therefore, there are some limitations to who can participate in which sectors of the game; however, the boundaries the Petitioner is attempting to draw on behalf of the court is beyond complicated and complex.

The Petitioner argues that it was a speedy trial; it was too fast. The United States apologizes for upholding one's Constitutional rights.

Justice Kagan: Counselor, approximately how long was the case from the charging to its conclusion?

Kabob: I do not have the duration for you. However, I know it was in accordance to P. Law 31-1.

Justice Kagan: How can you know that it was in accordance with the law then?

Kabob: I can recall it was in accordance; however, I do not have the exact duration from start to finish for you.

Justice Kagan: Was it 70 days?

Kabob: It was not. P. Law 31-1 limits it at 9 days. Limits it to nine days before it can be considered no longer a speedy trial.

Justice Kagan: Does the Department of Justice not have access to court transcripts?

Kabob: We do, but I personally do not.

Justice Kagan: The brief you wrote specifically says that you "[read] the case transcript."

Kabob: I was given the link to it.

However, I do not have access to the collection of them.

Justice Kagan: When does the 9 day period begin?

Kabob: Well, the preliminary trial ends upon the judge's saying so and when the date for the trial has been calendared. Upon that date and time, that is when the trial begins.

Justice Kagan: Isn't that contrary to all of judicial history?

The right to a speedy trial has always been understood to begin at the charging/indictment/similar phases. See 18 USC 3161

Kabob: "set the case for trial on a day certain, or list it for trial on a weekly or other short-term trial calendar at a place within the judicial district, so as to assure a speedy trial." See 18 USC 3161(a).

Justice Kagan: And it must comply with the 9 day timeframe. Or, 70 days in real life as set out in (c)(1). Isn't the text clear?

Kabob: P. Law 31-1 removed the 70 day threshold.

Justice Kagan: It created a conversion. That wasn't my point, My point was, those two clauses work in tandem (a) does not allow the judge to simply violate (c)(1) Public Law 31-1 created the conversion that gets us from 70 --> 9

Justice Kagan, we are now entering a conversation as to when a trial does begin. We have clauses and codes combatting our country's domestic law.

Justice Pitney: 40 minutes remaining.

Justice Kagan: The US Code says that a speedy trial must occur within X days from a charge in line with the Constitution. I fail to see how we should just disregard the text. Couldn't a judge, under your theory, simply put off scheduling a trial indefinitely since the time limit only begins at the trial phase?

Kabob: If that's the case, then the notion of prolonging the case indefinitely is also unconstitutional due to it, then, interfering with one's right to due process.

Justice Kagan: So then how long until you reach the point of interfering with due process?

Kabob: That question has yet to be answered. I'd be providing my personal interpretation. As I said, Justice Kagan, this is a new, uninterpreted territory.

Justice Kagan: The question has yet to be answered because we have never interpreted the right to a speedy trial in this way. Congress has legislated on the issue, it is not new. However, the position you are proposing is. Again, how long until you reach the point of interfering with due process?

Kabob: I think the statement I wrote in my brief applies here. Upon the calendared date is when the trial begins. The trial lasts for a maximum of 9 days. Any attempt to go beyond 9 days or to prevent a trial overall is against one's right to due process.

Justice Pitney: When you are finished with Justice Kagan's question, I have one myself: assuming The nine day "speedy trial" requirement is accepted, do you believe this is too short to reasonably expect a fair trial to occur? Do you believe anything could delay the beginning of trial proceedings without violating a defendant's right to a speedy trial?

Kabob: I believe it is too short. I have made motions asking for a two-day completion. I believe the consistent submitting of motions or changing of judges could, then, prolong the trial from occurring.

Justice Kagan: Is this how you see the current law?

Kabob: Yes. That's my current interpretation of the law, yes.

Justice Kagan: I have no further questions.

Justice Pitney: I also yield.

Justice Pitney: Seeing no further questions; Mister Kabob anything left to say, sir?

Kabob: I have nothing left if the Court has no further questions for me to respond to.

Justice Pitney: For the record, do you yield your time?

Kabob: I yield, yes.

Justice Pitney:

I thank the parties for participating.

This case is submitted

(Whereupon at 6:48 p.m., the case was submitted)