

Sixth amendment right to a speedy trial - illegitimate use of continuances

Law



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In *Barker v. Wingo*, the Supreme Court came up with four legitimate reasons that could be used to seek continuances. *Barker v. Wingo* test has been now applied to cases of Sixth Amendment claims (Herman, 2006). There are four main criteria's that need to be considered if right to speedy trial has been violated. They are: " length of the delay, reasons for the delay, defendant's assertion of his rights and prejudice to the defendant" (Pati, 2009, 206).

The consistency of the *Barker v. Wingo* test has been questioned by many but the need of such a test is necessary as there is definitely a danger of prosecutors seeking illegitimate continuances. There is definitely a chance that prosecutors can seek continuances in order to cause damage to the image of the defendant and also when they are short on evidence. Also prosecutors may seek continuances to make pretrial motions than required. Any continuances will help the prosecution to gain an advantage over the defense and build up a case. Hence, there is a clear danger that prosecution may seek illegitimate continuances.

But there are numerous factors that make an impact and need to be considered when granting or denying continuances. The *Barker v. Wingo* test only takes into account a limited number of factors and also is complicated when it comes to judging a particular case. It is nearly impossible for assess the results for consistency. There have been various instances where a wrong judgment has been reached due to the incorrect application of the *Barker v. Wingo* test (Herman, 2006).

References

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