

**STACK V. BOYLE**  
United States Supreme Court  
342 U.S. 1, 72 S.Ct. 1, 96 L.Ed. 3 (1951)

*The Eighth Amendment prohibits “excessive bail.” This provision has never been applied to the states via the 14<sup>th</sup> Amendment. In this case, the Supreme Court considers what constitutes “excessive bail” in federal criminal prosecutions.*

**Mr. Chief Justice Vinson** delivered the opinion of the Court.

Indictments have been returned in the Southern District of California charging the twelve petitioners with conspiring to violate the Smith Act.... Upon their arrest, bail was fixed for each petitioner in the widely varying amounts of \$2,500, \$7,500, \$75,000 and \$100,000. On motion of petitioner Schneiderman following arrest in the Southern District of New York, his bail was reduced to \$50,000 before his removal to California. On motion of the Government to increase bail in the case of other petitioners, and after several intermediate procedural steps not material to the issues presented here, bail was fixed in the District Court for the Southern District of California in the uniform amount of \$50,000 for each petitioner.

Petitioners moved to reduce bail on the ground that bail as fixed was excessive under the Eighth Amendment. In support of their motion, petitioners submitted statements as to their financial resources, family relationships, health, prior criminal records, and other information. The only evidence offered by the Government was a certified record showing that four persons previously convicted under the Smith Act in the Southern District of New York had forfeited bail. No evidence was produced relating those four persons to the petitioners in this case. At a hearing on the motion, petitioners were examined by the District Judge and cross-examined by an attorney for the Government. Petitioners’ factual statements stand uncontroverted.

After their motion to reduce bail was denied, petitioners filed applications for habeas corpus in the same District Court. Upon consideration of the record on the motion to reduce bail, the writs were denied. The Court of Appeals for the Ninth Circuit affirmed.... Prior to filing their petition for certiorari in this Court, petitioners filed with Mr. Justice Douglas an application for bail and an alternative application for habeas corpus seeking interim relief. Both applications were referred to the Court and the matter was set down for argument on specific questions covering the issues raised by this case.

Relief in this type of case must be speedy if it is to be effective. The petition for certiorari and the full record are now before the Court and, since the questions presented by the petition have been fully briefed and argued, we consider it appropriate to dispose of the petition for certiorari at this time. Accordingly, the petition for certiorari is granted for review of questions important to the administration of criminal justice.

First. From the passage of the Judiciary Act of 1789, 1 Stat. 73, 91, to the present Federal Rules of Criminal Procedure, Rule 46 (a) (1), federal law has unequivocally provided that a person arrested for a non-capital offense shall be admitted to bail. This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to

prevent the infliction of punishment prior to conviction.... Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries for struggle, would lose its meaning.

The right to release before trial is conditioned upon the accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty.... Like the ancient practice of securing the oaths of responsible persons to stand as sureties for the accused, the modern practice of requiring a bail bond or the deposit of a sum of money subject to forfeiture serves as additional assurance of the presence of an accused. Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is "excessive" under the Eighth Amendment....

Since the function of bail is limited, the fixing of bail for any individual defendant must be based upon standards relevant to the purpose of assuring the presence of that defendant. The traditional standards as expressed in the Federal Rules of Criminal Procedure are to be applied in each case to each defendant. In this case petitioners are charged with offenses under the Smith Act and, if found guilty, their convictions are subject to review with the scrupulous care demanded by our Constitution.... Upon final judgment of conviction, petitioners face imprisonment of not more than five years and a fine of not more than \$10,000. It is not denied that bail for each petitioner has been fixed in a sum much higher than that usually imposed for offenses with like penalties and yet there has been no factual showing to justify such action in this case. The Government asks the courts to depart from the norm by assuming, without the introduction of evidence, that each petitioner is a pawn in a conspiracy and will, in obedience to a superior, flee the jurisdiction. To infer from the fact of indictment alone a need for bail in an unusually high amount is an arbitrary act. Such conduct would inject into our own system of government the very principles of totalitarianism which Congress was seeking to guard against in passing the statute under which petitioners have been indicted.

If bail in an amount greater than that usually fixed for serious charges of crimes is required in the case of any of the petitioners, that is a matter to which evidence should be directed in a hearing so that the constitutional rights of each petitioner may be preserved. In the absence of such a showing, we are of the opinion that the fixing of bail before trial in these cases cannot be squared with the statutory and constitutional standards for admission to bail....

The Court concludes that bail has not been fixed by proper methods in this case and that petitioners' remedy is by motion to reduce bail, with right of appeal to the Court of Appeals. Accordingly, the judgment of the Court of Appeals is vacated and the case is remanded to the District Court with directions to vacate its order denying petitioners' applications for writs of habeas corpus and to dismiss the application without prejudice. Petitioners may move for reduction of bail in the criminal proceeding so that a hearing may be held for the purpose of fixing reasonable bail for each petitioner.

It is so ordered.