NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

REED *v.* FARLEY, SUPERINTENDENT, INDIANA STATE PRISON, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 93–5418. Argued March 28, 1994—Decided June 20, 1994

The Interstate Agreement on Detainers (IAD), a compact among 48 States, the District of Columbia, and the Federal Government, provides that the trial of a prisoner transferred from one participating jurisdiction to another shall commence within 120 days of the prisoner's arrival in the receiving State, Article IV(c), and directs dismissal with prejudice when trial does not occur within the time prescribed, Article V(c). Petitioner Reed was transferred in April 1983 from a federal prison in Indiana to state custody pursuant to an IAD detainer lodged by Indiana officials. Trial on the state charges was originally set for a date 19 days beyond the 120-day IAD period and was subsequently postponed for an additional 35 days. Although Reed's many and wide-ranging pretrial motions contained a few general references to the IAD time limit, he did not specifically object to his trial date until four days after the 120-day period expired. The trial court denied Reed's petition for discharge on the grounds that the judge had previously been unaware of the 120-day limitation and that Reed had not earlier objected to the trial date or requested a speedier trial. Reed then successfully moved for a continuance to enable him to prepare his defense. After his trial and conviction in October 1983, Reed unsuccesfully pursued an appeal and sought postconviction relief in Indiana's courts. He then petitioned for a federal writ of habeas corpus under 28 U. S. C. §2254. The District Court denied relief, and the Court of Appeals affirmed.

Held: The judgment is affirmed.

984 F. 2d 209, affirmed.

JUSTICE GINSBURG delivered the opinion of the Court with respect

to Parts I, III, and all but the final paragraph of Part IV, concluding that a state court's failure to observe IAD Article IV(c)'s 120–day rule is not cognizable under §2254 when the defendant registered no objection to the trial date at the time it was set, and suffered no prejudice attributable to the delayed commencement. Because Reed failed to make the requisite showing of prejudice, he cannot tenably maintain that his Sixth Amendment speedy trial right was violated. See *Barker* v. *Wingo,* 407 U. S. 514, 530. Reed's petition is properly considered under the ``fundamental defect'' standard set forth in *Hill* v. *United States,* 368 U. S. 424, 428. Reed urges that the *Hill* standard applies only to *federal* prisoners under §2255, not to *state* prisoners under §2254. This Court's decisions have recognized, however, that, at least where only statutory violations are at issue, §2254 and §2255 mirror each other in operative effect, see *Davis* v. *United States,* 417 U. S. 333, 344; *Hill* controls collateral review—under both §§2254 and 2255—when a federal statute, but not the Constitution, is the basis for the postconviction attack. See, *e.g., Stone* v. *Powell,* 428 U. S. 465, 477, n. 10. There is no reason to afford habeas review to a state prisoner like Reed, who let a time clock run without alerting the trial court, yet deny collateral review to a federal prisoner similarly situated. Pp. 1–6, 13–15.

Syllabus

JUSTICE GINSBURG, joined by THE CHIEF JUSTICE and JUSTICE O'CONNOR, concluded in Part II and the final paragraph of Part IV that habeas review is not available to check the trial court's failure to comply with Article IV(c). That failure does not qualify as a ``fundamental defect which inherently results in a complete miscarriage of justice, [o]r an omission inconsistent with the rudimentary demands of fair procedure.'' *Hill, supra,* at 428. When a defendant obscures Article IV(c)'s time prescription and avoids clear objection until the clock has run, an unwitting judicial slip of the kind involved here ranks with similar nonconstitutional lapses that are not cognizable in a postconviction proceeding. See, *e.g., id.,* at 429. Because Reed did not alert the trial judge to the 120-day period until four days after the period expired, the Court has no cause to consider whether an omission of the kind contemplated in *Hill* would occur if a state court, presented with a timely request to set a trial date within the IAD's 120-day period, nonetheless refused to comply with Article IV(c). The reservation of that question, together with the IAD's status as both federal law and the law of Indiana, mutes Reed's concern that state courts might be hostile to the federal law here at stake. Pp. 7–13, 15–16.

JUSTICE SCALIA, joined by JUSTICE THOMAS, agreed that the ``fundamental defect'' test of *Hill* v. *United States,* 368 U. S. 424, 428, is the appropriate standard for evaluating alleged statutory violations under both §§2254 and 2255, but concluded that the standard's application is broader than the principal opinion suggests. The class of nonconstitutional procedural rights that are inherently necessary to avoid ``a complete miscarriage of justice,'' or numbered among ``the rudimentary demands of fair procedure,'' is no doubt a small one, if it is not a null set. If there was ever a technical rule, it is the 120-day limit set forth in Article IV(c) of the Interstate Agreement on Detainers. Declining to state the obvious produces confusion: violation of that technicality, whether intentional or unintentional, is no basis for federal habeas relief. Pp. 1–4.

GINSBURG, J., announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, III, and all but the final paragraph of Part IV, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and THOMAS, JJ., joined, and an opinion with respect to Part II and the final paragraph of Part IV, in which REHNQUIST, C. J., and O'CONNOR, J., joined. SCALIA, J., filed an opinion concurring in part and concurring in the judgment, in which THOMAS, J., joined. BLACKMUN, J., filed a dissenting opinion, in which STEVENS, KENNEDY, and SOUTER, JJ., joined.