

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM C. EVERARD,

Defendant-Appellant.

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UNPUBLISHED

August 3, 1999

No. 211206

Oakland Circuit Court

LC No. 94-132444 FH

Before: White, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Defendant appeals as of right his plea-based conviction of aggravated stalking, MCL 750.411i; MSA 28.643(9). We affirm.

After various delays, including that occasioned by the prosecution's appeal of the trial court's dismissal of the charge, defendant entered a conditional plea of guilty to aggravated stalking. The offense was alleged to have occurred in 1993. Defendant reserved the right to appeal the trial court's denial of his motion to dismiss based on an alleged violation of the Interstate Agreement on Detainers (IAD), MCL 780.601 *et seq.*; MSA 4.147(1) *et seq.*, and the trial court's denial of his motion to dismiss based on a violation of the 180-day rule, MCL 780.131; MSA 28.969(1).<sup>1</sup>

The purpose of the IAD is to facilitate the prompt disposition of outstanding charges against an inmate incarcerated in another jurisdiction. *People v Meyers (On Remand)*, 124 Mich App 148, 154; 335 NW2d 189 (1983). A detainer is an informal notification filed with the institution in the signatory jurisdiction in which the inmate is serving a sentence advising that the inmate is wanted to face pending charges in another signatory jurisdiction. *People v Wilden (On Rehearing)*, 197 Mich App 533, 537; 496 NW2d 801 (1992). On appeal, defendant argues that the trial court erred by denying his motion to dismiss based on a violation of the IAD. We disagree.

We note that a panel of this Court rejected a substantially similar argument raised by defendant in *People v Everard*, unpublished opinion per curiam of the Court of Appeals, issued November 3, 1998 (Docket No. 196341). Interpretation of the terms of the IAD is a matter of statutory construction subject to de novo review. *People v Webb*, 458 Mich 265, 274; 580 NW2d

884 (1998). The communications in October and November 1993 did not constitute detainers under the IAD. *People v Gallego*, 199 Mich App 566, 574; 502 NW2d 358 (1993); *Wilden, supra*. A formal detainer was filed in February, 1994. Defendant's assertion that he was not provided notice of the detainer as required by Article III(c) of the IAD is unsubstantiated. Similarly, no violation of Article IV(e) of the IAD occurred when defendant was writtten back to Oakland County on or about November 3, 1993 but not tried on the instant charge prior to being returned to federal prison. The writ was issued prior to the filing of the detainer. The IAD does not apply until a detainer has been filed. *Gallego, supra* at 574. Finally, after being bound over to stand trial, defendant promptly filed various motions that required resolution prior to trial. By doing so, he waived his right to disposition of the charges within 180 days, as provided for in Article III(a) of the IAD. See *People v Jones (After Remand)*, 197 Mich App 76, 82; 495 NW2d 159 (1992).

Next, defendant argues that the trial court erred by denying his motion to dismiss for violation of the 180-day rule. MCL 780.131; MSA 28.969(1); MCR 6.004(D). We disagree. The 180-day rule requires that a state inmate must be brought to trial within 180 days after the prosecution is given notice of the existence of untried charges against him. The rule does not require that trial actually commence within 180 days. If the prosecution takes good faith action within that period and proceeds promptly to prepare the case for trial, the rule is satisfied. MCR 6.004(D)(1); *People v Bell*, 209 Mich App 273, 278; 530 NW2d 167 (1995). A trial court's attribution of delay is reviewed for clear error. *People v Crawford*, 232 Mich App 608, 612; 591 NW2d 669 (1998). Here, the trial court did not resolve the parties' dispute regarding the proper attribution of periods of delay. That failure notwithstanding, neither a reversal of the trial court's decision nor a remand for further proceedings is necessary. Assuming arguendo that defendant's calculations are correct, the delay not attributable to the defense totaled 185 days. Nothing on the record indicates that the prosecution made less than a good faith effort and proceeded promptly to prepare the case for trial. Dismissal was not warranted in this case. *Crawford, supra*.

Affirmed.

/s/ Helene N. White

/s/ Jane E. Markey

/s/ Kurtis T. Wilder

<sup>1</sup> A third issue was preserved but has not been raised on appeal.