

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2016-CA-000144-MR

COMMONWEALTH OF KENTUCKY

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE OLU A. STEVENS, JUDGE  
ACTION NO. 13-CR-000680

COREY L. THORNTON

APPELLEE

OPINION  
REVERSING AND REMANDING

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BEFORE: ACREE, JOHNSON, AND TAYLOR, JUDGES.

JOHNSON, JUDGE: The Commonwealth of Kentucky (“Commonwealth”) appeals from the January 12, 2016 Order of the Jefferson Circuit Court, granting Corey Thornton’s (“Thornton”) Motion to Dismiss the charges against him due to the Commonwealth’s failure to bring his case to trial within 180 days of his filing a notice under the Interstate Agreement on Detainers (“IAD”). After reviewing the

record in conjunction with the applicable legal authorities, we REVERSE and REMAND this matter to the Jefferson Circuit Court to reinstate the indictment and proceed to trial.

### **BACKGROUND**

Thornton was arrested for two separate offenses in Jefferson County, case nos. 12-F-012662 and 12-F-013765. On March 12, 2013, a Jefferson County Grand Jury returned an indictment based on case no. 12-F-012662, and an arrest warrant was issued. The other case has since been dismissed. On May 9, 2013, the Commonwealth issued a detainer against Thornton via fax to the Clark County Jail in Indiana. The detainer listed the address of the sender as 524 W. Liberty Street, Louisville, Kentucky 40202, and referenced “[O]utstanding Circuit Court Bench warrant(s) #13CR0680 . . . .”

On March 24, 2014, Thornton sent by certified mail an IAD, a Notice of Untried Indictment, Information or Complaint and of Right to Request Disposition, to “Prosecutor Jefferson County, 600 West Jefferson Street, Louisville, KY 40202.” The IAD referenced case nos. 12-F-012662 and 12-F-013765 in the Jefferson County District Court.

On November 11, 2015, Thornton moved the Jefferson Circuit Court to dismiss the Kentucky indictment based on the Commonwealth’s failure to comply with the requirements of Kentucky Revised Statutes (KRS) 440.450 relating to his IAD request. That motion was granted by the court on January 12, 2015, on the basis that the Commonwealth had failed to try Thornton within 180 days as

required under KRS 440.450. It is from that order the Commonwealth now appeals.

### **STANDARD OF REVIEW**

The construction and application of a statute is a matter of law. Therefore, our review is de novo without deference to the interpretations adopted by lower courts. *Commonwealth v. McBride*, 281 S.W.3d 799, 803 (Ky. 2009) (citations omitted).

### **ANALYSIS**

The facts of this case are not in dispute. All parties agree that Thornton prepared, signed, and mailed his request for disposition of the charges pending against him under the IAD statute to the wrong party, the Jefferson County Attorney, but he did not mail it to the Jefferson Circuit Court or its clerk. He also incorrectly cited the case for which a detainer had been issued.

The IAD is an interstate compact among forty-eight states, the District of Columbia, and the federal government, which creates uniform procedures for lodging and executing a detainer. Both the Commonwealth of Kentucky and the State of Indiana are members of the compact. Kentucky adopted the compact at KRS 440.450, *et seq.*

Thornton acknowledges that he failed to strictly comply with the requirements of the statute, but suggests that his good faith efforts should be sufficient for compliance. However, Kentucky law requires strict compliance with the provisions of KRS 440.450. *Clutter v. Commonwealth*, 322 S.W.3d 59, 64

(Ky. 2010). His failure to correctly name the party to whom the IAD was to be sent, sending it to the district rather than the circuit court, and his failure to reference the correct case (listing the district court cases and not the case pending in the circuit court) were fatal to his claim. Thornton cannot claim ignorance of the facts since he made an appearance by counsel at his circuit court arraignment on March 12, 2013.

Thornton next suggests that the problem is not that he incorrectly filled out the IAD, but that the Jefferson County Attorney failed to forward it on to the Commonwealth's Attorney. However, it is the detainee who bears responsibility under the statute for the accuracy of the notice. *Johnson v. Commonwealth*, 450 S.W.3d 696, 701 (Ky. 2014) (citation omitted). Because Thornton failed to fill out the IAD with the proper address, he never put the Commonwealth on notice that he was requesting a speedy trial, and therefore never triggered the 180-day trial period as provided under KRS 440.450. The County Attorney was under no duty to forward his mail or to correct his mistake.

The last argument Thornton raises, that he was thwarted by public officials in his attempt to file his IAD, is unsupported by any facts in the record. He was given the proper form by the Superintendent. It was his responsibility to fill it out with the correct information. It was not the responsibility of the Superintendent at the prison to proof read his form for accuracy.

Thus, the Jefferson Circuit Court committed error when it dismissed his indictment based on KRS 440.450.

Based upon the foregoing, we REVERSE and REMAND this matter to the Jefferson Circuit Court for action consistent with this opinion.

ACREE, JUDGE, CONCURS.

TAYLOR, JUDGE, DISSENTS WITHOUT SEPARATE OPINION.

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