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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1885**

State of Minnesota,
Respondent,

vs.

Jasment Lamont Taylor,
Appellant.

**Filed September 16, 2019
Affirmed
Jesson, Judge**

Olmsted County District Court
File No. 55-CR-17-970

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mark A. Ostrem, Olmsted County Attorney, Jennifer D. Plante, Senior Assistant County Attorney, Rochester, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Jesson, Presiding Judge; Bjorkman, Judge; and Klaphake, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

JESSON, Judge

On appeal from his convictions of escape from custody, fleeing police in a motor vehicle, and obstructing legal process, appellant Jasment Lamont Taylor—who is serving an unrelated sentence in Wisconsin—argues that the district court erred by failing to dismiss the charges against him because he was not brought to trial within the 180-day time period dictated by the Interstate Agreement on Detainers. Because we conclude that Taylor waived his right to challenge the disposition time period by failing to object when his trial was scheduled beyond the 180-day period, we affirm.

FACTS

In September 2016, a driver was stopped by a uniformed officer for speeding. The officer approached the driver's side window and asked the driver for his license and insurance information. Because the driver did not have a driver's license, he provided the officer with a paystub showing the name of appellant Jasment Lamont Taylor and a birth date. Upon contacting dispatch, the officer learned that Taylor had an active Wisconsin warrant. After an additional officer arrived, officers told Taylor that he was under arrest because of the active warrant. When an officer tried to open his car door, Taylor put the car into gear and drove away. The two officers followed in their squad cars as Taylor drove through downtown Rochester at speeds of 80 to 100 miles per hour.

After hearing about the car chase on dispatch, a Rochester police officer set up spike strips that would puncture and deflate the car's tires. Taylor drove over the spike strips,

resulting in a flat tire. When Taylor continued driving through a populated area of downtown Rochester, the officers stopped pursuing the car because of safety concerns.

Taylor's car was later discovered in the median of a road in downtown Rochester. But Taylor was not in or near the car. Inside the car, officers found a Wisconsin identification card with Taylor's name on it and several other cards. Taylor was charged with six crimes—felony escape from custody, fleeing a peace officer in a motor vehicle, obstructing legal process, reckless driving, failure to provide proof of insurance, and speeding. And a warrant was executed for Taylor's arrest in Minnesota and border states.

Several months later, in November 2017, the Olmsted County Attorney was contacted via letter by the Wisconsin Department of Corrections, where Taylor was incarcerated on unrelated convictions. This letter indicated that the warrant for his arrest had been received and lodged as a detainer. Included with the letter was Taylor's signed request for final disposition of the Minnesota charges.¹ Olmsted County district court received this request on December 4, 2017. And on December 11, 2017, the assistant county attorney signed the prosecutor's acceptance of temporary custody offered in connection with Taylor's request for disposition of the detainer.

At Taylor's first appearance, the district court appointed his trial counsel. The state informed the court of Taylor's detainer request at this hearing. And Taylor indicated that

¹ A written request for final disposition functions as a request for the disposition of "all untried indictments, informations, or complaints" that underlie any detainer lodged by any jurisdiction within the state to which the request is forwarded. Minn. Stat. § 629.294, subd. 1, art. III(d) (2018).

he wanted “to remain here and not go back to Wisconsin until we get this matter resolved.” At Taylor’s next hearing, he again informed the district court of his detainer request.

In April 2018, Taylor asserted his right to a speedy trial, and though he was given an opportunity to address other matters pertinent to scheduling the trial, Taylor declined to do so. The Olmsted County Court Administrator issued a notice of hearing to both parties on April 26, 2018, indicating that the jury trial was scheduled for June 11, 2018. This trial date was reiterated when the district court issued a written pretrial order dated May 9, 2018 stating that Taylor’s trial was scheduled to begin on June 11, 2018. And at the pretrial hearing, on June 5, 2018, the district court inquired as to when Taylor’s detainer would expire. Taylor’s counsel stated that although he did not know the exact date the detainer would expire, he believed it would expire after the June 11 trial date.

On the first day of his trial, Taylor asserted that the trial was untimely because the state had not tried him within the time allotted under the Interstate Agreement on Detainers. After concluding that Taylor initiated the detainer, the district court determined that Taylor waived the 180-day trial period because he had accepted the June 11 trial date and did not raise any objection during the six-week period between the scheduling of the trial date on April 26, 2018 and the commencement of the trial.

The jury found Taylor guilty of escape from custody, fleeing a peace officer in a motor vehicle, and obstructing legal process. And the district court sentenced Taylor to an executed term of 19 months for the escape from custody conviction and to an executed concurrent term of 21 months for the conviction of fleeing police in a motor vehicle. Taylor appeals.

DECISION

The Interstate Agreement on Detainers (IAD) is a compact among 48 states, the federal government, and the District of Columbia to establish procedures for resolving one jurisdiction's outstanding criminal charges against a prisoner who is incarcerated in another jurisdiction. *State v. Dickerson*, 777 N.W.2d 529, 532 (Minn. App. 2010), *review denied* (Minn. Mar. 30, 2010). Minnesota is a party to the agreement. Minn. Stat. § 629.294, subd. 1 (2018). The agreement's purpose is to require prompt disposition of outstanding charges so that persons incarcerated in other jurisdictions receive a speedy trial on those charges. *State v. Burks*, 631 N.W.2d 411, 412 (Minn. App. 2001).

Under the agreement, “if a prisoner requests final disposition of out-of-state charges for which a detainer² has been lodged against him, the prisoner shall be ‘brought to trial’ on the out-of-state charges within 180 days after the request is received or the charges will be dismissed.” *State v. Kurz*, 685 N.W.2d 447, 450 (Minn. App. 2004) (quoting Minn. Stat. § 629.294, subd. 1, arts. III(a), V(c)), *review denied* (Minn. Oct. 27, 2004). And the 180-day time period is also subject to waiver, either personally by the defendant or by defense counsel. *State v. Wells*, 638 N.W.2d 456, 460 (Minn. App. 2002), *review denied* (Minn. Mar. 19, 2002). That waiver is not limited to explicit or affirmative conduct, but may also be implicit, such as when defense counsel agrees to a trial date beyond the 180-day time limitation. *New York v. Hill*, 528 U.S. 110, 114-18, 120 S. Ct. 659, 663-66 (2000);

² “A detainer is a request filed by a criminal justice agency with the institution in which a prisoner is incarcerated, asking the institution either to hold the prisoner for the agency or to notify the agency when release of the prisoner is imminent.” *Carchman v. Nash*, 473 U.S. 716, 719, 105 S. Ct. 3401, 3403 (1985).

Wells, 638 N.W.2d at 461. We review de novo whether a prisoner waived the 180-day time period under the agreement. *Wells*, 638 N.W.2d at 460.

Taylor argues that his charges must be dismissed because his case was not tried within 180 days from when his detainer request was received by the prosecutor and the district court. The district court found that the 180-day period began on December 11, 2017, indicating the detainer expired on June 9, 2018. Trial began two days later. And the record shows that Taylor's trial was scheduled for the June 11, 2018 trial date on April 26, 2018, that Taylor received a notice of hearing, the trial date was reiterated in a written pretrial order issued by the district court on May 9, 2018, and at the pretrial hearing on June 5, 2018, the district court again stated the trial would commence on June 11, 2018. Neither Taylor nor defense counsel, who were both present, objected to that scheduling. Accordingly, we conclude that when defense counsel failed to object to a trial scheduled beyond the 180-day period, the defense implicitly waived the agreement's time limitations. *See Hill*, 528 U.S. at 115, 118, 120 S. Ct. at 664, 666.

Still, Taylor argues that his defense counsel did not discover the violation of the IAD until the day of trial. In support of his argument, Taylor draws this court's attention to *Wells*, 638 N.W.2d at 460. In *Wells*, this court determined that because "[t]he record demonstrate[d] that defense counsel repeatedly and willingly accepted treatment inconsistent with IAD time limitations," the defendant waived such time limitations. 638 N.W.2d at 461. And Taylor asserts that because defense counsel did not know of the IAD violation until the day of trial, no waiver occurred. But the record demonstrates that if defense counsel did not know exactly when the 180-day period expired, the lawyer

should have been aware the expiration date was approaching. On April 26, 2018, Taylor received the notice of hearing for the June 11, 2018 trial. And the district court issued a pretrial order on May 9, 2018, indicating that Taylor’s trial would commence on June 11, 2018. Further, at the June 5, 2018 pretrial hearing, the district court specifically asked defense counsel when the detainer expired and if the June 11 trial date would work. Defense counsel responded that he thought the detainer expired “after that,” but he was “not sure when the detainer [expired].” All three of these notices occurred prior to the expiration of the detainer.³ As a result, we conclude that defense counsel implicitly waived the IAD’s time limitations. *See Hill*, 528 U.S. at 115, 118, 120 S. Ct. at 664, 666.

Affirmed.

³ Taylor’s detainer was also mentioned at the January 19, 2018 first appearance hearing and the February 7, 2018 initial appearance hearing. Both defense counsel and Taylor were present at these hearings.