[J-105-2004]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

CAPPY, C.J., CASTILLE, NEWMAN, SAYLOR, EAKIN, BAER, BALDWIN, JJ.

COMMONWEALTH OF PENNSYLVANIA,	:	No. 357 CAP
	:	
Appellee	:	Appeal from the judgment of sentence
	:	entered on September 4, 2001 in the
	:	Court of Common Pleas of Lehigh County,
v.	:	Criminal Division at No. 3716/1996
	:	
	:	
JAMES T. WILLIAMS,	:	
	:	SUBMITTED: March 10, 2004
Appellant	:	
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	:	
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CONCURRING OPINION

MR. CHIEF JUSTICE CAPPY **DECIDED: April 21, 2006**

I join the majority opinion, except for its analysis of the claim that Appellant brought under the Interstate Agreement on Detainers Act ("IADA" or "Act"), 42 Pa.C.S. §9101. I write separately to set forth my reasoning for affirming the trial court's decision to deny Appellant relief under the IADA. More specifically, I believe that the trial court correctly determined that because Appellant did not demonstrate that he strictly complied with the

IADA's procedural requirements, its 180-day time limit for bringing him to trial did not commence, and the Act was not violated.[1] [2]

By way of background, the IADA is a congressionally sanctioned interstate compact within the Compact Clause of the United States Constitution, U.S.Const. Art. I, §10, cl. 3, and therefore, is a federal law, subject to federal construction. Cuyler v. Adams, 449 U.S. 433, 438-442 (1981). Under principles of federal construction, the sources that the courts consult to determine the Act's meaning are its language and structure as well as its legislative history, which is reflected in the comments made on the draft Agreement by the Council of State Governments at its 1956 conference and by Congress when it adopted the Act in 1970. See, e.g., Carchman v. Nash, 473 U.S. 716 (1985). Further, the courts keep the purposes of the Act and the reasons for its adoption in mind when construing its provisions. See, e.g., United States v. Mauro, 436 U.S. 340, 361-62 (1978).[3]

The Act establishes procedures by which one state (the "Receiving state") obtains temporary custody from another state of a prisoner (the "Sending state") against whom a detainer was lodged in order to bring him to trial on a pending indictment, information, or

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[1] In this regard, I disagree with the majority and Mr. Justice Baer in his dissenting opinion that the trial court addressed and resolved the substance of Appellant's IADA claim. In my view, the trial court's decision that Appellant was brought to trial in a timely fashion was rendered only under Pennsylvania's prompt trial provision at Pa.R.Crim.P. 600 (formerly Pa.R.Crim.P. 1100).

[2] I note that in connection with Appellant's IADA claim, the trial court also stated that Appellant was not seeking relief under the IADA, and that the parties had agreed that Appellant's rights to a speedy trial would be considered under the standards set forth in Pa.R.Crim.P. 1100. These statements are not supported by the record. The record reveals no such agreement and shows that Appellant raised, and argued, and never abandoned his IADA claim.

[3] The majority appears to believe that analysis of Appellant's claim under Pa.R.C.P. 600 suffices as analysis of his IADA claim. In light of these principles, I disagree.

complaint. Art. II; Cuyler, 449 U.S. at 436 & n.1. Under the Act, there are alternative procedures for the transfer of custody of such a prisoner. One of these procedures, found in Article III, is initiated by the prisoner.[4]

In this regard, Article III(a) sets forth certain actions for a prisoner to complete in order to invoke the Act's protection. Article III(a) provides:

> Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, *he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint:…The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.*

Art. III(a) (emphasis added). In addition, under Article III, "[i]f trial is not had on any indictment, information, or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information, or complaint shall not have any further force or effect and the court shall enter an order dismissing the same with prejudice." Art. III(d).

The courts, both state and lower federal, have addressed what steps a prisoner must take in order to trigger Article III's 180-day time period. Many of these courts have held that

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[4] The other procedure is found in Article IV and is initiated by a prosecuting officer in the Receiving state. Even though it was Appellant who purported to invoke the Act under Article III, the majority appears to be under the mistaken impression that this is an Article IV case.

the period is not triggered unless a prisoner strictly complies with Article III's procedural requirements and has caused to be delivered to the prosecutor and the appropriate court the materials and information that it sets forth. See supra, p. 3.[5] Further, it is the prisoner's burden to prove such compliance. See United States v. Moline, 833 F.2d 190, 192 (9th Cir. 1987); United States v. Henson, 945 F.2d 430, 434 (1st Cir. 1991).

In considering the merits of the strict compliance approach, I find decisions of the United States Supreme Court in the area instructive. For example, in Fex v. Michigan, 507 U.S. 43 (1993), the High Court was called upon to construe the meaning of the phrase in Article III "within 180 days after [the prisoner] shall have caused to be delivered" in order to determine when the 180-day time period commences to run. Declining to construe the phrase more liberally than the literal words of the IADA would have allowed, the Court rejected that the phrase refers to the time at which a prisoner transmits his written notice of imprisonment and request for final disposition to the correctional authorities in the state where he is incarcerated. Id. at 47. Rather, the Court focused on the literal language of the Act, and held that "the 180-day time period in Article III(a) of the [IADA] does not commence until the prisoner's [notice and] request for final disposition of the charges

[5] See e.g., United States v. Dent, 149 F.3d 180 (3d Cir. 1998) (concluding that prisoner's letter to District Court was insufficient to trigger Article III when it did not include term of commitment, the time already served, the time remaining to be served on his sentence, or any information concerning good-time credits or parole eligibility); Norton v. Parke, 892 F.2d 476 (6th Cir. 1989) (concluding that prisoner's request that referred to Article III without the certificate of custodial authority and information regarding prisons and eligibility for parole was insufficient); Commonwealth v. Copson, 830 N.E. 2d 193 (Mass. 2005) (and cases cited therein) (concluding that prisoner's motion for a speedy trial, which did not include written notice of place of imprisonment, a proper request for final disposition and a certificate of inmate status and other mandated items of information, did not commence the running of the 180-day time period); State v. Somerlot, 544 S.E.2d 52 (W.Va. 2000) (and cases cited therein) (concluding that Article III's 180-day time period was never triggered because prisoner failed to carry his burden of making sure that his request for final disposition was actually delivered to the court).

against him ha[ve] actually been delivered to the court and prosecuting officer that lodged the detainer against him." Id. at 52. In doing so, the Court counseled that any arguments for a contrary result based on "fairness" and the Act's "higher purpose" were more appropriately addressed to the legislatures of the contracting states that had adopted the IADA's text. Id.; See also Carchman, 473 U.S. at 716 (considering the plain language in the IADA to be of paramount significance and refusing to find that the broader purposes of the Act compelled a different conclusion, it is held that an outstanding probation-violation is not an ''untried indictment, information or complaint" within the meaning of Article III).

In light of this guidance, I too conclude that under the IADA, a prisoner must demonstrate that he met all of the procedural requirements that Article III imposes upon him in order for the Act's 180-day time period to be triggered. This adheres to the text of Article III, which is cast in absolute terms, and follows the Supreme Court's jurisprudence, which hews to the IADA's literal language in construing the Act's provisions. Fex; Carchman, supra. at pp. 4-5; See Alabama v. Bozeman, 533 U.S. 146, 153 (2001) (viewing the word "shall" in Article IV(e) as the language of command and concluding that there is no implicit exception for a *de minimis* violation of its terms). Moreover, requiring a prisoner to follow the procedural steps that Article III sets forth advances the Act's stated purpose "to encourage the expeditious and orderly disposition of [outstanding] charges and determination of the proper status of any and all detainers based on untried indictments, informations, or complaints." Art. I.[6]

[6] I also conclude that in light of the Act's language and legislative history and relevant case law, there is no room for Mr. Justice Baer's determination that Article III's time period was triggered in this case because neither the trial court nor the Commonwealth asserts that "the notice" that Appellant gave regarding his desire to proceed under the IADA "failed in any way relevant to its purpose of notifying the Commonwealth of [his] desire to return to Pennsylvania to defend his outstanding charges." (Dissenting Opinion, Baer, J. at 11). Further, I believe that Mr. Justice Baer's determination that Article III's start date was February 18, 1999, when the Commonwealth "acknowledged (and corroborated by its (continued…)

My review of the record reveals that Appellant did not show when, if ever, he caused to be delivered to the prosecuting officer and the Court of Common Pleas of Lehigh County the written notice of the place of his imprisonment, request for a final disposition of the charges brought against him, or the certificate that Article III requires. Therefore, I conclude that Appellant failed to meet his burden of proving compliance with Article III's procedural requirements; that Article III's 180-day time limit was not triggered; and that the Act was not violated in the present case.[7]

(…continued)
conduct) its receipt of Appellant's IADA notice" is inconsistent with the Supreme Court's decision in Fex. Id. at 13.

Because I conclude that Article III's time limit did not commence to run in the first instance, I do not consider the meaning of the IADA's tolling provision in Article VI, as has Mr. Justice Baer in his dissent.

[7] There is a memorandum that Appellant filed in the trial court in July 2001 entitled "Exigent Appeal" and directed to this Court's attention. The trial court viewed the memorandum to be an interlocutory appeal that was improperly submitted to it and forwarded the document to this Court for purposes of the present appeal. Attached to the memorandum are copies of documents that appear to be IADA forms. Because Appellant submitted these documents for the first time on appeal, I have not considered them nor should this Court consider them. See Pa.R.A.P. 1921; Commonwealth v. Young, 317 A.2d 258, 264 (Pa. 1974).