

[Cite as *State v. James*, 2015-Ohio-5429.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 102944

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**STATE OF OHIO**

PLAINTIFF-APPELLANT

vs.

**EDWIN A. JAMES**

DEFENDANT-APPELLEE

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**JUDGMENT:**  
**AFFIRMED**

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-13-576008-A

**BEFORE:** McCormack, J., Keough, P.J., and S. Gallagher, J.

**RELEASED AND JOURNALIZED:** December 24, 2015

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TIM McCORMACK, J.:

{¶1} Plaintiff-appellant, the state of Ohio, appeals from the trial court’s dismissal of the complaint with prejudice against defendant-appellee, Edwin A. James. For the following reasons, we affirm the judgment of the trial court.

#### Procedural History and Substantive Facts

{¶2} The facts of the case are largely undisputed. James was indicted in Cuyahoga County for kidnapping, felonious assault, and domestic violence in July 2013 (Cuyahoga C.P. No. CR-13-576008). On October 8, 2013, James failed to appear and a capias was issued. Thereafter, the state learned that James was imprisoned in Indiana for a period of two years. In December 2013, pursuant to the Interstate Agreement on Detainers (“IAD”), the state, through Cuyahoga County, lodged a detainer with the Indiana Department of Corrections in order to secure James.

{¶3} Meanwhile, James was indicted in Lake County in December 2013 for tampering with coin machines, possessing criminal tools, and theft (Lake C.P. No. 13-CR-000618). In January 2014, Lake County also lodged a detainer against James after learning that he was imprisoned in Indiana.

{¶4} Thereafter, in accordance with the IAD, James requested final disposition of his case in Cuyahoga County as well as in Lake County. Although Cuyahoga County had placed its detainer first, James was transported to Lake County on March 25, 2014, in order for James to answer to the charges against him in Lake County. James pleaded guilty to one count of tampering with coin machines and one count of theft in Lake C.P.

No. 13-CR-000618. On May 27, 2014, the trial court sentenced James to 12 months in prison on the merged offenses, to be served consecutively to the Indiana sentence he was currently serving. For reasons not entirely clear from the record, rather than being transferred to Cuyahoga County, James was returned to the Indiana Department of Corrections approximately 19 days after sentencing.<sup>1</sup>

{¶5} On July 4, 2014, Cuyahoga County retrieved James from the Indiana prison and brought him to the Cuyahoga County jail. James filed motions to dismiss the charges pending against him in Cuyahoga County, initially pro se and then with the assistance of counsel, alleging violations of the IAD. The trial court granted James's motion and dismissed the charges with prejudice. The court determined that, under the circumstances presented, the IAD compelled dismissal of the charges pending in Cuyahoga County once James was returned to Indiana.

{¶6} The state appealed the judgment of the trial court, assigning one error for our review:

The trial court erred in granting appellee's motion to dismiss without a hearing pursuant to the interstate agreement on detainers where appellant properly lodged a detainer with another state but was denied access to appellee by another Ohio county.

#### The Interstate Agreement on Detainers

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<sup>1</sup> The state asserts in its brief that Lake County refused to transfer James to Cuyahoga County.

{¶7} The state alleges that the trial court erred in dismissing the charges against James for several reasons: the trial court incorrectly analyzed the case under Article IV of the IAD rather than Article III; James was “unable to stand trial” and therefore the speedy trial time period was tolled; and because James had completely served his sentence in Indiana, he is not afforded the protection of the IAD. James provides that his return to Ohio (Cuyahoga County) for the second time, following his plea and sentencing in Lake County, was a direct breach of the IAD and dismissal of the Cuyahoga County charges was warranted.

{¶8} In 1969, Ohio entered into the IAD. *See* R.C. 2963.30. The IAD is a compact among 48 states, the District of Columbia, and the United States that establishes procedures whereby one jurisdiction may obtain the temporary custody of a prisoner who is incarcerated in another jurisdiction in order to bring the prisoner to trial. *State v. Black*, 142 Ohio St.3d 332, 2015-Ohio-513, 30 N.E.3d 918, ¶ 3, citing *Cuyler v. Adams*, 449 U.S. 433, 435, 101 S.Ct. 703, 66 L.Ed.2d 641 (1981), fn. 1. The IAD serves to “encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainees based on untried indictments, informations or complaints” and to provide “cooperative procedures” in order to facilitate interstate transfers. R.C. 2963.30, Meadows, *Interstate Agreement on Detainers and the Rights it Created*, 18 Akron L.Rev. 691, 695 (1985). The objective of the IAD is therefore two-fold: it minimizes interference with prisoner rehabilitation while providing a

procedure for the implementation of a prisoner's speedy trial rights. *Black* at ¶ 7; *United States v. Palmer*, 574 F.2d 164, 167 (3d Cir.1978).

{¶9} The IAD is a remedial statute and “shall be liberally construed to effectuate its purposes.” R.C. 2963.30, Art. IX. The United States Supreme Court has held that the legislative history of the IAD emphasizes that a primary purpose of the IAD is the protection of prisoners against whom detainers have been lodged. *Cuyler* at 449. Despite its liberal construction, however, the agreement contains strict procedural requirements that must be followed. *State ex rel. Corbin v. Superior Court*, 155 Ariz. 365, 746 P.2d 937 (Ariz. App.1987), citing *Stroble v. Anderson*, 587 F.2d 830, 839 (6th Cir.1978).

{¶10} The agreement contains two provisions that govern the procedures by which a prisoner against whom a detainer is lodged may be transferred to the temporary custody of another state for disposition of charges pending in that state. Article III, which outlines the prisoner-initiated procedures, provides that where there are pending charges in another state on the basis of which a detainer has been lodged, the prisoner shall be brought to trial within 180 days after the prisoner's filing of a request for final disposition of the underlying charges of the detainer. R.C. 2963.30, Art. III(a). Article IV, which outlines the state-initiated procedures, provides that where a prisoner elects not to request final disposition, the receiving state has 120 days after arrival in the state in which to bring the prisoner to trial. *Id.*, Art. IV(c).

{¶11} Regardless of the procedure utilized, the IAD contains what is known as the “anti-shuttling” provision, which is designed to protect the prisoner from excessive transfers. *United States v. Pursley*, 474 F.3d 757, 762 (10th Cir.2007). This provision, found in both Articles III and IV, provides that if a trial is not held in the receiving state “prior to the return of the prisoner to the original place of imprisonment,” the indictment or complaint “shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.” R.C. 2963.30, Art. III(d) and IV(e); *United States v. Taylor*, 173 F.3d 538, 540 (6th Cir.1999); *Corbin* at 939 (whether under Article III or IV, the operative language mandating dismissal is the same). “The use of the mandatory term ‘shall’ in connection with [the anti-shuttling provision of the IAD] demonstrates that the states which are parties to the agreement have the affirmative duty of complying with its terms.” *United States v. Eaddy*, 595 F.2d 341, 344 (6th Cir.1979).

{¶12} The courts analyzing Articles III(d) and IV(e) have generally construed the anti-shuttling provision literally, making no distinction between counties within the receiving state and the receiving state itself. *See State v. Williams*, 8th Dist. Cuyahoga No. 52998, 1987 Ohio App. LEXIS 7024 (Apr. 30, 1987); *Boyd v. State*, 51 Md. App. 197, 441 A.2d 1133 (Md. Ct. Spec. App.1982); *State v. Keener*, 577 P.2d 1182 (Kan.1978).

{¶13} *Williams, supra*, concerns an appeal of the trial court’s denial of a postconviction petition alleging a void judgment based upon a violation of Article III(d) of the IAD. In *Williams*, the appellant was imprisoned in Pennsylvania when the state of

Ohio, through Cuyahoga County, issued detainers on two separate indictments. Williams requested a final disposition on the untried indictments for both cases for which Cuyahoga County prosecutors had issued the detainers. All parties fully complied with the initial procedural requirements of R.C. 2963.30. Williams was returned to Cuyahoga County where he pleaded guilty only in one case and then was returned to Pennsylvania. No disposition was made in the other case during the first trip to Ohio. Several months later, Williams was returned to Cuyahoga County for trial in the second case. Following this second transfer back to Ohio, Williams pleaded guilty on that case, was sentenced, and was returned to Pennsylvania.

{¶14} Finding that the language in R.C. 2963.30, Article III(d), is “explicit,” this court reversed Williams’s conviction on the second Cuyahoga County case. *Williams* at \*10. We concluded that “[o]n appellant’s initial return to Ohio, the undisputed facts demonstrate appellant was not tried on all charges for which detainers had been posted; therefore, the indictment in [the second case] was void under the provisions of R.C. 2963.30 and the judgment therefore is a nullity.” *Id.* at \*11.

{¶15} In *Keener*, a case involving two counties within the same receiving state, the Kansas Supreme Court strictly construed Article IV(e) of the IAD in favor of dismissal of the untried charges against the defendant. *Id.*, 577 P.2d 1182. *Keener*, a federal prisoner in Washington, was released to the state of Kansas under requests by two Kansas counties — Sedgwick and Harvey — in accordance with Article IV of the IAD. Sedgwick County received custody of *Keener*, and it transported *Keener* to Harvey



County, where he was arraigned on the pending Harvey County charges. Thereafter, Keener was returned to Sedgwick County, where he pleaded guilty to the Sedgwick County charges. Despite the still pending charges in Harvey County, and unbeknownst to Harvey County, Sedgwick County returned Keener to the federal penitentiary in Washington. Approximately one week later, when Harvey County learned that Keener had been returned, the county attempted to regain custody of Keener. Over Keener's objection, he was subsequently sent back to Harvey County, where he was tried and convicted.

{¶16} Although finding that “the sanction imposed may seem severe,” the Kansas Supreme Court determined that Article IV(e) of the IAD mandates that the Harvey County charges against Keener be dismissed. *Id.* at 1184. The court reversed the conviction in Harvey County, concluding that “[w]hen the state returned defendant without having tried him on all the outstanding charges pending in this state, defendant was entitled to have them dismissed with prejudice.” *Id.*

{¶17} In light of the above, we find that the trial court correctly dismissed the Cuyahoga County charges against James based upon a violation of the anti-shuttling provision of the IAD. Although the trial court incorrectly analyzed the case under the state-initiated procedures outlined in Article IV, rather than the prisoner-initiated Article III, the operative language mandating dismissal is the same. *Corbin*, 155 Ariz. 365, 746 P.2d 937.

{¶18} Here, in accordance with the procedural requirements outlined in the IAD, James was transported to Ohio, where he pleaded guilty and was convicted in Lake County. The record demonstrates that Lake County was apparently aware of the detainer lodged against James by its sister county, Cuyahoga County. Nonetheless, for reasons not stated in the record, Lake County inexplicably transported James back to Indiana before Cuyahoga County could try James on the pending Cuyahoga County charges. The language of Article III(d) is clear: if a trial is not held in the receiving state “prior to the return of the prisoner to the original place of imprisonment \* \* \* the court shall enter an order dismissing the same with prejudice.” R.C. 2963.30. The IAD provides no distinction between a receiving state and the counties within the receiving state. Thus, both Lake and Cuyahoga Counties are collectively considered the receiving state for purposes of the mandates of the IAD.

{¶19} Therefore, as the undisputed facts demonstrate, James was not tried on all charges in the receiving state for which detainers had been posted. Under these circumstances, Article III(d) of the IAD mandates that the Cuyahoga County charges against James be dismissed, regardless of any tolling provisions. The counties’ failure to communicate, or cooperate, with each other is not the detained prisoner’s burden to bear.

{¶20} Accordingly, the state of Ohio’s sole assignment of error is overruled. The judgment of the trial court dismissing James with prejudice the complaint against is affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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TIM McCORMACK, JUDGE

KATHLEEN ANN KEOUGH, P.J., and  
SEAN C. GALLAGHER, J., CONCUR