

In The S.C. Court of Appeals
4th Judicial Cir

Aaron Jay Carter

PLAINTIFF

V.

State of South Carolina
County of Aiken

Defendant

In The S.C. Court of
Appeals, 4th Judicial Cir.

notice And motion
To Appeal Judgement
of second Judicial Cir
order Denying motion
To Dismiss, on Ind.
no. CS 2012-65-02-00
633, 35, 36

To: The Honorable Clerk of South Carolina
Court of Appeals 4th Cir

Now Come The prose plaintiff In The Above
Captioned case who moves This Respective Court
For An order To Alter or Amend The order signed by
The Honorable Clifton Newman on April 23rd 2013
Filed with The Clerk of Court In Aiken County on
4-23-2013, The order was Recieved by Counsel For
The Plaintiff VIA First Class mail on April 29th
2013.

This matter came before The Court on plaintiff
motion To Dismiss pursuant To The "IADA" And
S.C. Code Ann 17-11-10 et seq. A Hearing WAS
Held on motion on August 29th 2012 At The Aiken

County Court house And An order dated April, 23th WAS Filed with The Clerk's office In Aiken County on April 23rd 2013 Denying The plaintiff's motion to Dismiss; Therewith The plaintiff makes This motion To Alter or Amend Judgement In The Above Captioned matter (pro se). The plaintiff OFFER The Following In support of His motion To Alter or Amend.

The state Does not Deny That The plaintiff properly AVailed Him self In This matter pursuant To The provisions of The "IADA". The state Admits That within A 180 day period They Had To Try And or Dispose of The Above Ref: matter - no later Than July 2nd 2012. However The plaintiff OFFER The Following In support of His contentions That The State Should Have Tried And or Disposed of Above Captioned matter by June 16th 2012 And began To Run on Dec. 16th Citing Fex V. Michigan And Its language and spirits. In Further support of His motion The plaintiff contends That The S.C. S. Ct Ruled That when Interpreting A Statute one must Interpret The language by Its letter Not Changing

Anything; In Fed The Term After He Shall CAUSE To be delivered IS IDENTICAL To The plaintiff's Act When He placed Exhibit "A" In The United States postal service For delivery And There AFTER Having no Authority over such Item or When It would or could reach Its destination (see Exhibit "A"); In pertinent parts; Today Almost Triple That Time HAS PAST And The plaintiff Remains untried.

The state contends And The order Reflects That The "IADA" ceases To Apply To The plaintiff In This matter because He WAS Released From Federal custody but The Bureau of prisons listed Him AS An Inm long AFTER That date. (see Exhibit "A")-BP-235, 36, 39 And BP-5-565); (F) notifying The state or Requesting Agency To Return SAID prisoner To The Federal Bureau of prisons AFTER The Above Ref: matter (see Exhibit "A") IS Disposed OF; Forthwith There IS nothing In The "IADA" or Art III or 17-11-10 or CASE LAW That states That An Inmate must Remain In The custody And Control OF The Federal bureau of prisons And or

In Fed. Custody In order For The provisions OF The "IADA" To Apply, In Fact These provisions exist on The State level As well, Just so As The petitioner Remains In Custody And Serving A Term For A conviction.

The State Argue And The order Reflect That Wamble v. Tennessee 957 S.C. 2d 83 (Ct App 1997) WAS Relied Upon In making The Ruling In This matter, However Wamble Involves A prisoner who IS Released on parole during The Time His Charges Are pending; And "IADA" WAS In Effect, Inmates who Are Temporarily Transferred pursuant To The IADA Remain under The primary Jurisdiction OF Fed Authorities As WAS In This CASE, citing Art. V (e) OF The "IADA" (see paragraph no. 3 Exhibit(A)).

At The motion Hearing His Honor Indicated VIA verbal comment" so This IS A Speedy Trial motion with Teeth And That IS exactly what The IADA IS supposed To provide"; However In The current case It WAS Denied

Therefore Violating The Above plaintiff Const. Right To Due process, The plaintiff Availed Himself To The provisions of This Act Therefore Any Vagueness or Ambiguities Should be Resolved In His Favor As His Due process Guarantee Was Destroyed by This Action of This Respective Court And prosecution.

It is a long standing law in South Carolina that in a contract dispute Any question will be Resolved Against The Drafter; In a Criminal matter The State Takes The position of The Drafter And All differences Should be Resolved In The Favor In The matter The plaintiff;

The State Admits And The order Reflects That This matter Raised As A Result of A motion To Dismiss pursuant To The IADA, 17-11-10 et seq Are issues of First Impression in This State, However Ignorance of The Law (s) Are no excuse For The Deprivation of one's Right To Due process AS

provided by The provisions OF The 14th Amend.; The plaintiff HAVE The Right To Rely on The State To Abide by The Terms OF The "IADA" And sec Code 17-11-10 S.C. Code Ann et seq. Instead The State IS Attempting To Evade The provisions OF The "IADA" And Violate And or Deny The plaintiff's Due process Right by Failing To bring The Defendant To Trial In The 180 day period AS Required by This Act And now claims The Act Ceases To Apply.

The plaintiff next Argues That even IF The 180 day period IS Calculated From Jan 3rd 2012 AS The state contends The plaintiff WAS not Tried on Indictment before July 2nd 2012, Let US Revisit The language And spirits vs. The purpose OF This Act.

The purpose OF The "IADA" IS To Foster expeditious disposition OF Charge(s) out Standing Against prisoners so AS To Eliminate uncertainties which Accompany Filing OF detainers; Citing State v. Finley 277 S.C. 548, 290 S.E.2d 808 (1982). Additionally The 180 day Requirement Furthers The

GOAL OF promoting Prisoners Rehabilitation programs by Requiring The State To proceed To Trial In A Timely Fashion Citing State v. patterson 273 S.C. 361, 256 S.E. 2d 417 (1979)

Additionally The "IADA" is Applicable To Any Inmate House In State, County OR Fed. Institutions Where A Detainer Is outstanding Against Him or Her, not Just A Fed Inmate, In pertinent part The plaintiff Above named Still Remain In Custody Denied benefit of This Act.

However The pertinent Issue Is The Interpretation of Art. III of The "IADA" And The language And spirits of The Term CAused To be Delivered "And" I Reiterate An Inmate Acting under The "IADA" AFTER He Has Delivered Relevant documents into The United State postal service For Delivery He Has CAused Them To be And Has no Further Authority over said Documents which would be Dec. 16th 2011, which would make The "IADA" Applicable until June 16th 2012 And The expiration Date June 16th 2012 Therewith

Pg # 8 of 8

The 180 day Time period To Try His Case expired before His Release From Prison

Base upon The foregoing and All of The Facts previously placed in The Record, It is Respectfully Requested That This Court To Alter or Amend. The lower Courts Rulings and Dismiss Without prejudice The Above Captioned matter.

Plaintiff prays His motion be Granted

Enclosures: JAN. 20th 2014
Aiken County Detention Ctr
435 wire Rd
Aiken, S.C. 29801

Sincerely

I Remain,

Jason Carter
3-24-14

In The S.C. Court of Appeals

AARON JAY CARTER

PLAINTIFF

V.

State of South Carolina
County of Aiken

In The S.C. Court of Appeals 4th Judicial Circuit

Indictment no's

2012-GS-02-006
33, 35 And 36

Certificate of Service

I, AARON JAY CARTER pro se PLAINTIFF In Above captioned case, Do Hereby Certify, That I Have served A Copy of The foregoing Documents upon The following Individuals listed below by Depositing The same In The United State postal system AFFixed with proper postage And Addressed To The following.

J. Strom Thurmond
109 Park Ave
Aiken, S.C. 29801

Office of The Clerk
S.C. Court of Appeals
1015 Sumter St
Columbia, S.C.

29201

To: madam Clerk, South Carolina Court
OF Appeals

From: Aaron Jay Carter

RE: please find enclosed a copy of
the motion to amend or alter I have
prepared for your consideration

Dear: madam Clerk

I Am with Hopes That This Inquiry
will Find you in Good Health And prospering
However The Essence OF The Inquiry
IS To Respectfully Request That madam
Clerk Forward me A copy OF The motion
Contain Herein Inthat limited Writing
Supplies Are Availible At This Facility
Thanks In Advance For your Assistance.

Sincerely
I Remain

by:



U. S. Department of Justice

Federal Bureau of Prisons

Federal Correctional Institution

8301 Highway 521
Salters, South Carolina 29590

December 16, 2011

Barbara R. Morgan
Solicitor
109 Park Avenue
Aiken, SC 29801

RECEIVED

JAN 5 2012

RE: CARTER, Aaron
Federal Register No: 98870-071

SOLICITOR

Aiken County: M-035610 Murder/Murder
M-035611 Murder/Attempted Murder
M-035612 Weapons/Possession weapon during violent crime

Dear Ms. Morgan:

The above referenced defendant has requested disposition of pending charges in your jurisdiction pursuant to the Interstate Agreement on Detainers Act (IADA). Necessary forms are enclosed.

We request action be taken under Article III of the IADA and IAD Form VI, (BP-S564), "Evidence of Agents' Authority" and Form VII, (BP-S566), "Prosecutor's Acceptance of Temporary Custody" be submitted to us, as necessary. The two (2) people who are the designated agents to return the prisoner to your State **must** also be the people whose signatures appear on the Form VI. It would be advisable to designate alternate agents whose signatures **must** also appear on the Form VI, in the event the primary agents are unable to make the trip. Also be advised that the designated agents **must** have in their possession a copy of the Form VI, proper identification, and a certified copy of the warrant when assuming custody of the prisoner. Any questions regarding this procedure may be directed to the individual listed below or the Agreement Administrator for your State.

Inmates who are temporarily transferred pursuant to the IAD remain under the primary jurisdiction of federal authorities. Should you accept temporary custody of this inmate, we wish to remind you that under Article V(e) of the IAD, you are required to return the

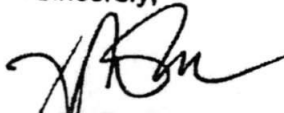
EXHIBIT A

above named inmate to this institution after prosecution on all pending charges. While this inmate is in your temporary custody, he or she will be held in a suitable jail that meets the level of security required by the Bureau of Prisons. **This inmate's security level is Medium, which requires him to be escorted and transported by two (2) law enforcement staff, while restrained with hand cuffs, leg irons and Martin Chain.** Any problems associated with this inmate must be reported to the individual listed below. This inmate may not be released on bail or bond while in your custody. Additionally, this inmate is not to be committed to a state correctional institution for service of any state sentence(s) that may be imposed because of your prosecution.

To help us with processing, please fill out the enclosed certification form and return to us before scheduling a date for assuming custody. Upon completion of the State proceedings, contact this office to schedule a date for the inmate's return to federal custody.

If you have any questions on this matter, please call: Betty Kemp, Supervisory Correctional Systems Specialist at (843) 387-9400, Monday through Friday from 8:00am to 3:30pm.

Sincerely,



John R. Owen
Warden

Enclosures: BP-Forms S235, S236, S238, S239
BP-S565, Prosecutor's Certification Form

cc: Clerk of Court
State IADA Administrator

06/21/2012

08:22

8433879557

ISM FAX

PAGE 01/03

United States Government
 Williamsburg Federal Correctional Institution
 8301 Hwy 821
 P.O. Box 220
 Sellers, SC 29390
 843-387-9400

Department of
 Justice

Fax

RECEIVED

MAR 28 2014

SC Court of Appeals

To: LL Carter

From: J. Scott 843-387-8553

Fax: 803-642-2040

Pages:

Phone: 803-642-2135

Date: 06-22-2012

Re: CARTER, Aaron

cc:

Urgent For Review Please Comment Please Reply Please Recycle

• **Comments:** Good Morning. This is the release paperwork for our inmate CARTER, Aaron 98870-071, who is in your custody for your local charges. As we discussed, his release date from the Bureau of Prisons is today, June 22, 2012. Please have one person sign the release authorization under the RELEASE ACTION for identified by and another staff sign for Released by. Under the RECEIPT OF AGENT TAKING CUSTODY, please fill in Name/Title, Signature and Date and fax back to 843-387-8557. Thank you for your assistance in this matter. If you have any questions, please call me at 843-387-8553 or 843-387-9400.

EXHIBIT
A

RECEIVED

MAR 28 2014

SC Court of Appeals

IN THE CIRCUIT COURT
ELEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN

State of SOUTH CAROLINA,

-v-

Aaron CARTER,
defendant.

Warrant Nos.

M-035610, M-035611,
M-035612

NOTICE OF MOTION &
MOTION TO QUASH & DISMISS
INDICTMENTS

2012-GS-02-00633, 00635, 00636

PLEASE TAKE NOTICE that the Defendant will move this Honorable Court at _____ on _____, 2012, by and through his undersigned attorney, for an Order quashing the indictments in the above-captioned matter and for an Order dismissing all charges against him. The Defendant will move the Court upon the following Motion:

Motion to Quash & Dismiss Indictments

Defendant Aaron Carter, by and through his attorney of record, moves this Court to quash and dismiss the indictments herein for failure to prosecute within the mandatory time limitations set forth in the Interstate Agreement on Detainers Act (hereinafter "IADA"), S.C. Code Ann. § 17-11-10 *et seq.*, and would respectfully show the following:

1. On or about December 16, 2011, pursuant to S.C. Code Ann. § 17-11-10, Art. III(a), the Defendant caused to be served upon the solicitor for Aiken County and the Clerk of Court for Aiken County a written notice and request for speedy disposition of all

Filed in without court date. Our office does not schedule motions and informed Attorney of the same.

code

FILED

13 July 2012

Liz Godard
C.C.P. & G.S. Clerk

Shannon D. Rosenkrantz
Deputy Clerk

2012-GS-02-00633

outstanding charges against him.

2. Said notice and request specifically detailed the place of the Defendant's imprisonment and contained a request for final disposition of the indictment, information, or complaint brought against him.

3. Said notice and request was accompanied by a certificate of the appropriate official having custody over him, which stated the term of commitment under which he was 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 Defendant, and any decisions of the state parole agency relating to the Defendant.

4. Since December 16, 2011, a period of more than 180 days has elapsed and the Defendant has not been brought to trial on any of these charges.

5. No continuance for good cause shown in open court, with the Defendant present, has been granted in this matter nor has the Defendant been the cause of any delay in prosecution.

6. S.C. Code Ann. § 17-11-10, Art. III(a) specifically states that all untried indictments, informations, and complaints must be brought to trial within 180 days of an inmate's request under IADA.

7. Under the IADA, failure to prosecute within the mandatory 180-day time limit requires dismissal of all untried charges with prejudice. *Cf. State v. Patterson*, 273 S.C. 361, 364 (1979)(finding that a trial court has no discretion to issue a continuance when the state fails to begin prosecution within 180 days of inmate's request and further

2012-GS-02-00633

remanding case back to trial court for dismissal with prejudice). *See also Carchman v. Nash*, 473 U.S. 716, 721 (1985) ("The authorities in the receiving State then must bring the prisoner to trial within 180 days, absent good cause shown, or the court must dismiss the indictment, information, or complaint with prejudice, and the detainer will cease to be of any force or effect.").

8. For these reasons, the indictments against the Defendant should be quashed and all charges against him should be dismissed.

Signed this 13th day of July, 2012

At Greenwood, S.C.

RESPECTFULLY SUBMITTED

By: 

Stephen Geoly
Attorney for the Defendant
GEOLY SHEEK & MERRITT
1225 Main Street S.
Greenwood, S.C. 29646-3807
(864) 223-3352
geoly70@yahoo.com

2012-GS-02-00633

EXHIBIT
B

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF AIKEN) SECOND JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
) ORDER DENYING
) MOTION TO DISMISS
vs.)
) Indictment Numbers: 2012-GS-02-00633,
) 2012-GS-02-00635, and 2012-GS-02-00636
AARON JAY CARTER,)
)
) Defendant.)
_____)

This matter came before the Court on the Defendant's Motion to Dismiss Pursuant to South Carolina Code §17-11-10, *et. seq.*, commonly known as the Interstate Agreement on Detainers (hereinafter IAD or the Act). A hearing was held on the Defendant's motion on August 29, 2012 at the Aiken County Courthouse. The Defendant was present for the hearing and was represented by his attorney, Stephen D. Geoly. The State was represented at the hearing by Assistant Solicitor David Miller. After hearing from the parties and considering the record before the Court, I find that the Defendant's Motion should be, and hereby is, denied for the reasons set forth below.

The Defendant is charged with Murder, Attempted Murder, and Possession of a Firearm during the Commission of a Violent Crime, which are indictment numbers 2012-GS-02-00633, 2012-GS-02-00635, and 2012-GS-02-00636, respectfully, involving the death of Aaron Coston and the shooting of Christopher Byers on the night of August 8, 2011. Following an investigation by the Aiken County Sheriff's Office, warrants were obtained on December 3, 2011 charging Aaron Carter with these offenses.

At the time the warrants were obtained, the Defendant was incarcerated at Federal Correctional Institute (FCI) Williamsburg in Salters, South Carolina. The Defendant initiated a

FILED April 25, 2013
Liz Hodard
C.C.P.&G.S.
Dyostan B...
Deputy Clerk

request for the disposition of the warrants against him pursuant to The Act. (Exhibit A.) The notice of the request was received by The Clerk of Court for Aiken County received the notice of request on January 3, 2012 and the Aiken County Solicitor received it on January 5, 2012.

On April 4, 2012, Wallis A. Alves of the Aiken County Public Defender's Office filed standard discovery motions and a demand for preliminary hearing on behalf of the Defendant. On April 19, 2012, the State made its initial disclosures of evidence pursuant to Rule 5, SCRCrimP and *Brady v. Maryland*, 373 U.S. 83 (1963). On May 4, 2012, Alves filed a motion to have a bond set on the Defendant's charges. The Honorable Ferrell Cothran denied the Defendant's motion for Bond on May 10, 2012. On June 4, 2012, Mr. Geoly informed the Solicitor's office that he had been retained to represent the Defendant in these matters.

The Defendant was released from Federal custody on June 22, 2012. (Exhibit B). On July 13, 2012, the Defendant filed a motion to dismiss alleging violation of the speedy trial provision of The Act that is codified in S.C. Code Ann. §17-11-10, Art. III(a) and specifically states that all untried indictments, informations, and complaints must be brought to trial within 180 days of an inmate's request under the Act.

The defense first contends that the 180-day time period should begin to run from December 16, 2011, the date of the Defendant's request. However, the State contends that the 180-day time period did not begin to run until January 3, 2012, the date the request was actually received by the Aiken County Clerk of Court. The State, in support of this contention, relies on *Fex v. Michigan*, 507 U.S. 43 (1993). In *Fex*, the United States Supreme Court considered the term "after he shall cause to be delivered" in the context of the Michigan Interstate Agreement on Detainers Act. The language in the Michigan version of the Act is identical to the language in the South Carolina version of the Act. After a lengthy discussion of the meaning of the quoted

term, the Supreme Court held the 180-day time period after prisoner "shall have caused to be delivered" request for final disposition of charges against him to prosecuting officer and court of jurisdiction that lodged detainer against him commences, not with prisoner's transmittal of IAD request to prison authorities, but with actual delivery of disposition request to that court and prosecutor.

This appears to be an issue of first impression in this State. I note the Supreme Court's conclusion that the 180-day period does not commence until the prisoner's disposition request has actually been delivered to the court and prosecutor of the jurisdiction that lodged the detainer against him. Accordingly, I find that the 180-day period began to run on January 3, 2012 and therefore would expire on July 2, 2012¹.

The Defendant next argues that even if the 180-day period is calculated from January 3, 2012, as the State contends, the Defendant was not tried on the indictments before July 2, 2012. Accordingly, the defense argues, these matters should be dismissed with prejudice. The State concedes that the Defendant has not been tried on the indictments, and that no request for a continuance was made to extend the time to try the case as permitted by the Act. The State alleges, however, that the Act ceased to apply to this case on June 22, 2012 when the Defendant was released from Federal custody. Because this issue has never been addressed by the South Carolina Courts, it is necessary to examine the purpose of the Act.

The purpose of the Interstate Agreement on Detainers is to foster expeditious disposition of charges outstanding against prisoners so as to eliminate uncertainties which accompany filing of detainers. *See State v. Finley*, 277 S.C. 548, 290 S.E.2d 808 (1982). Additionally, the 180-day requirement furthers the goal of promoting prisoner rehabilitation programs by requiring the

¹ The 180th day after January 3, 2012 would be Sunday, July 1, 2012.

receiving state to proceed to trial in a timely fashion. *See State v. Patterson*, 273 S.C. 361, 256 S.E.2d 417 (1979).

In this case, once the Defendant was released from Federal custody on June 22, 2013, the purpose for which the Act was enacted was no longer applicable. Upon his release from Federal custody, the Federal prison had no authority to receive or hold the Defendant any longer and the Defendant had no ability to avail himself of participating in any Federal prison rehabilitation program. The State contends and the Court agrees that the Defendant's release from Federal custody changed his status from a "prisoner" as contemplated by the Act, to that of a pre-trial detainee in the sole and exclusive custody of Aiken County. This contention is substantiated by Article III(a) of the Act, which provides, in relevant part, "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 an untried indictment..." (emphasis added). This Court looks to guidance from other jurisdictions construing the Act because this issue has not been previously addressed by our Courts.

In *Womble v. Tennessee*, 957 S.W.2d 839 (Ct. App. 1997), the Tennessee Court of Appeals was confronted with a similar factual scenario. Womble was charged with crimes occurring in Tennessee and subsequently incarcerated in Georgia. While incarcerated in Georgia, he requested a disposition of his Tennessee charges pursuant to the Tennessee Interstate Agreement on Detainers Act. Pursuant to the Act, which contains the same provisions as the South Carolina Act, Womble was transported from Georgia to Tennessee to face the Tennessee Court. Prior to being tried on those charges, Womble was placed on parole from his Georgia sentence. Womble alleged the 180-day time period to try his case expired before his trial. The

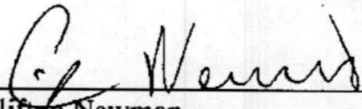
Court determined that under any calculation of time, Womble had, in fact, been paroled in Georgia before the deadline.

The Tennessee Court found that Womble's parole in Georgia had removed him from the class of persons the Act was intended to protect. Several other jurisdictions have reached similar conclusions. *See, generally, State v. Bellino*, 557 A.2d 963, 964 (Me. 1989) (a parolee is not a prisoner to whom the time limitations of the Compact apply); *State v. Dunlap*, 57 N.C. App. 175, 178, 290 S.E.2d 744, 746 (1982) (upon release of defendant from prison in another state before expiration of the period for bringing him to trial under the Interstate Agreement on Detainers, the agreement no longer governed his right to a speedy trial); *United States v. Roy*, 830 F.2d 628, 633 (7th Cir.1987)(the Interstate Compact on Detainers no longer applied to the defendant following the expiration of his sentence in the sending state); *State v. Holley*, 82 Md. App. 381, 389, 571 A.2d 892, 896 (1990) (IAD does not apply to a prisoner whose term of imprisonment in a sister state ends prior to the expiration of the speedy trial date under the IAD; *State v. Smith*, 353 N.W.2d 338, 341 (S.D.1984) (where defendant had ceased being a prisoner serving a term of imprisonment in another jurisdiction within IAD's speedy trial time period, IAD was not applicable to him and trial court did not err in refusing to dismiss the indictment on speedy trial grounds).

Based on the foregoing, I find that the Act ceased to apply to the Defendant once he was released from Federal custody on June 22, 2012. The purposes of the Act are not frustrated by this result since the Defendant was not a "prisoner" continuing to serve a term of imprisonment as of that date. Additionally, it is noted that the Defendant was allowed to seek bond in this case. Following June 22, 2012, if a bond had been granted and posted, the Defendant would have been released from custody by the Aiken County authorities to await trial on these charges.

Essentially, the Defendant is in the same position as any other pre-trial detainee in the Aiken County Detention Center. The Defendant's Motion to Dismiss pursuant to the provisions of the Interstate Agreement on Detainers is therefore DENIED.

IT IS SO ORDERED.



Clifton Newman,
Presiding Judge

April 23, 2013
Lexington, South Carolina

EXHIBIT

C

MO 35610

MO 35611

MO 35612

STATE OF SOUTH CAROLINA)
)
 COUNTY OF AIKEN)
)
 STATE OF SOUTH CAROLINA,)
)
 vs.)
)
 AARON JAY CARTER,)
)
 Defendant.)

IN THE COURT OF GENERAL SESSIONS

SECOND JUDICIAL CIRCUIT

Notice of Motion and
Motion to Alter or Amend
Judgment

Indictment Numbers 2012-GS-02-00633,
2012-GS-02-00635, and 2012-GS-02-00636

MAY 6 2013
 Deputy Clerk
 U.C.C.P. & G.S.
 SS [Signature] Deputy Clerk

TO: The Honorable Clifton Newman

Comes now the Defendant through and by his undersigned attorney, and moves this Court to reconsider its decisions made as a result of a motion hearing held August 29, 2012 at the Aiken County Courthouse in an Order dated April 23, 2013 and filed with the Clerk's Office in Aiken County on April 25, 2013. The Order was received by Counsel for the Defendant via first class mail on April 29, 2013.

This matter came before the Court on the Defendant's Motion to Dismiss pursuant to the Interstate Agreement on Detainers Act ("IADA"), S.C. Code Ann. § 17-11-10 *et seq.* A hearing was held on the motion on August August 29, 2012 at the Aiken County Courthouse and an Order dated April 23, 2013 and filed with the Clerk's Office in Aiken County on April 25, 2013 followed denying the Defendant's motion. The Defendant by and through his counsel makes this motion to reconsider and alter and/or amend the Order denying the Defendant's motion to dismiss and would offer the following in support of said motion:

The State does not deny that the Defendant in this matter properly availed himself to the provisions of the "IADA". The State admits that the 180 day period they had to try the Defendant began no later than January 3, 2012. The State further admits that the

4cut to Atty Geoly

1 MS

Defendant should have been tried by July 2, 2012. Today, almost triple that time has passed and the Defendant remains untried. The State contends and the Order reflects that the "IADA" ceases to apply to the Defendant in this matter because he was released from Federal Custody on June 22, 2012. However, no one told the Defendant he was released from Federal Custody and the Bureau of Prisons listed him as an inmate long after that date. Furthermore, nothing in the "IADA" statute or case law indicates that you have to remain in Federal Custody for the provisions of the agreement to apply.

The State argued and the Order reflects that *Womble v. Tennessee*, 957 S.W.2d 839 (Ct. App. 1997) was relied upon in making the rulings in this matter. However, *Womble*, involves a prisoner who is released on parole during the time his charges are pending. In the current matter, the Defendant has been continuously incarcerated and the matter is easily distinguished from the *Womble* case.

At the motion hearing, your Honor made the comment, "so this is a speedy trial motion with teeth". That is exactly what the "IADA" is supposed to provide. The Defendant availed himself to the provisions of this act, and any vagueness or ambiguities should be resolved in his favor. It is long standing law in South Carolina that in a contract dispute, any question will be resolved against the drafter. In criminal matters the State takes the position of the drafter, and all differences should be resolved in the favor of the Defendant. The State admits and the Order reflects that the matters raised as a result of this motion are "issues of first impression in this State", but the Defendant has not received the benefit of the "tie goes to the runner" rule, if you will. The Defendant should be able to rely on the State to abide by the terms of the "IADA", instead the State failed to bring the Defendant to trial as required by the Act and now claims the Act

2-11-12

ceases to apply. However, there is nothing in the case law that indicates a prisoner who remains in custody is not still entitled to the benefits of the agreement just because he is technically released from Federal Custody. The Defendant, Mr. Carter, is imprisoned in the same jail he was on June 21, 2012 and he remains there today. He has received nothing to indicate he is/was released from Federal Custody. He is imprisoned and awaiting trial as he has been since arriving in Aiken County. According to the "IADA" he should have been tried within 180 days of delivering his request to the authorities in Aiken County, or within 120 days of arriving in Aiken County, both time limits were exhausted long ago.

The State admits and the Order reflects that the Defendant properly availed himself to the provisions of the "IADA" and that the Defendant at no time has requested a continuance that might have extended the time limits. The State argued and prevailed apparently on the basis that the Defendant is no longer entitled to the benefits of the provisions of the "IADA" because he was released from Federal Custody. Instead of relying on the plain language of the statute, they have attempted and succeeded in watering down the requirements placed on the State by the Act. As stated above, the State should not receive the benefit of the doubt, but the Defendant should. If this Order stands as is, it takes the teeth out of the only "speedy trial motion" that had any to begin with.

Based on the foregoing, and all of the facts previously placed in the record, it is respectfully requested that this Court reconsider its previous ruling and alter or amend the judgment and grant the Defendant's motion to dismiss the indictments against him as required by the "IADA".

[Handwritten signature]

EXHIBIT

D

M035610
M035611
M035612

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN) IN THE COURT OF GENERAL SESSIONS
)
) SECOND JUDICIAL CIRCUIT

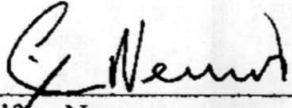
STATE OF SOUTH CAROLINA)
)
)
vs.)
)
AARON JAY CARTER,)
) ORDER DENYING
) MOTION FOR RECONSIDERATION
) Indictment Numbers: 2012-GS-02-00633,
) 2012-GS-02-00635, and 2012-GS-02-00636
) Defendant.
)

This matter comes before the Court on the Defendant's Motion for Reconsideration of this Court's denial of Defendant's Motion to Dismiss.

Having carefully considered the arguments submitted and applicable law, the Court finds that the Motion for Reconsideration should be DENIED.

It is therefore ORDERED that the Defendant's Motion for Reconsideration of the denial of Defendant's Motion to Dismiss is DENIED.

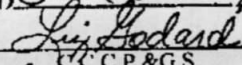
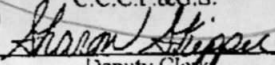
AND, IT IS SO ORDERED.

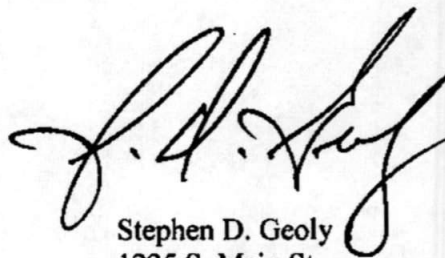


Clifton Newman
Presiding Judge

June 12, 2013
Columbia, South Carolina

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FILED June 24 2013

Lij Dodard
C.C.P. & G.S.
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Aaron Higgins
Deputy Clerk



Stephen D. Geoly
1225 S. Main St.
Greenwood, SC 29646
(864) 223-3352
FAX (864) 223-3400

Dated this 6th day of May, 2013.
Greenwood, South Carolina

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Aaron J. Carter

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