National Association of Extradition Officials 59th Annual Training Conference Milwaukee, Wisconsin May 19-21, 2024

Interstate Agreement on Detainers

Case Study
Self-Help
Trial by Sister County

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Self-Help

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Self-Help

Prisoner:

- Bypasses sending notice/request to prison officials – sends directly to prosecutor/court
- No detainer lodged against prisoner
- Notice/request may be incomplete

Article III does not permit a prisoner's self-help effort to start the running of the 180-day period under the IAD

<u>Check you state's case law.</u> Some state courts have found that the IAD does not require literal and exact compliance by the prisoner with the directions of the IAD in order to avail themselves of its benefits – FACT SPECIFIC

Prisoner's Request

Proper Procedures

ARTICLE III(a): "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.... The request . . . shall be accompanied by a certificate of the appropriate official having custody of the prisoner. . . ."

ARTICLE III(b): "The ... request for final disposition ... in paragraph (a) ... shall be given or sent by the prisoner to the warden ... who shall promptly forward it ... to the appropriate prosecuting official and court by registered or certified mail, return receipt requested."

- <u>Prisoner:</u> gives or sends notice/request to officials in prison
- Officials: promptly forwards notice/request to prosecutor and court
 - Must include Certificate of Prisoner's Status (FORM III)
 - Must be sent registered/certified mail, return receipt requested

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Self-Help

EXAMPLE

	SISKAYOU COUNTY COURT	
SISKAYOU COUNTY		CALIFORNIA
STATE OF CALIFORNIA	} .	
٧.	Case No. 23CF01913	
DAVID ANDREW BOPP	· ·	

MOTION FOR PINAL DISPOSITION / SPEEDY TRIAL UNDER THE INTERSTATE
AGREEMENT ON DETAINERS AND CALIFORNIA PENAL CODE SECTION 1989.

Requests "final disposition/speedy trial . . . under the Interstate Agreement on Detainers and California Penal Code Section 1389."

facility in Pennsylvania (See Exhibit 1 - Insate Data Report). The PCI-McKean facility sent the Siskayou Sheriff's Office a Detainer Action Letter to determine the disposition of this matter. (See Exhibit 2). The Defendant requests the timely disposition in this matter or the timely dismissal of the charges.

The Interstate Agreement on Detainers ("IAD"), codified by California Penal Code
Section 1389, is "an agreement between California, 47 other States, and the federal
government. It facilitates the resolution of detainers, based on untried indictments,
informations, or complaints in one jurisdiction, lodged against persons who have
'entered upon a term of imprisonment' in another jurisdiction", People v. Lavin,
88 Cal. App. 4th 609, 612, 106 Cal. Eptr.2d 40 (2001). The "IAD establishes a
procedure by which a prisoner against whom a detainer has been lodged may dexand
trial within 180 days of a written request for final disposition", Id.

Under Article III of the IAD, a prisoner shall be brought to trial within 180 days

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after he delivers written notice "to the prosecuting officer and the appropriate court" seeking final disposition of the charges against him under the IAD, 18 U.S.C. app. II, 5 2, art. III(a).

"Attached Exhibit 1 provides the Court with the Defendant's release date, sentencing date, date committed to the Bureau of Prisons, good time credits earned, the percentage of time served, etc."

The Defendant seeks the timely disposition of this matter because the pending instant charge adversely affects the Defendant's federal sentence. Specifically, the Defendant was classified to a higher security facility due to the pending case; the Defendant is unable to participate in certain rehabilitative programs in the Eureau of Prisons because of the instant pending case; the Defendant's federal imprisonment will be longer because the pending instant charge disqualifies the Defendant from reluase to a federal halfway house.

The Sixth Circuit has recently recognized the adverse impact of detainers and pending charges on incarcerated individuals by finding that the pending charges have "real-world effects on prisoners by restricting their ability to participate in many prison programs", <u>U.S. v. Faught</u>, 2022 U.S. App. LEXIS 20078 at 14 (6th Cir. July 19, 2022)) and the U.S. Supreme Court has recognized that such detainers "produce uncertainties and obstruct programs of prison treatment and rehabilitation", <u>Carchman v. Nash</u>, 473 U.S. 716, 719-20, 105 S.Ct. 3401, 87 1.Ed.2d 516.

CONCLUSION

WHEREFORE, the Defendant hereby invokes his speedy trial rights and his rights under the IAD and California Penal Code Section 1389, and respectfully requests the timely disposition or dismissal of the instant pending charges.

Respectfully Submitted,

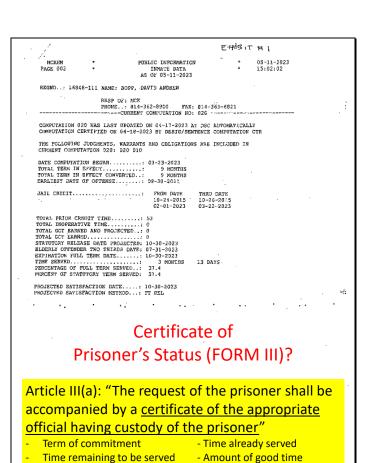
David Andrew Bopp U \$15848-111
PCI McKean
PO Box 8000
Bradford, PA 16701

CERTIFICATION OF SERVICE

I, David Andrew Bopp, hereby certify that I mailed a copy of this document to the Siskayou Sheriff's Office, 305 Butte Street, Yreka, CA 96097 and the Attorney General's Office, Justice Department, PO Box 944255, Sacromento, CA 94244-2550 on May 24, 2023. ASkiyou Conny count clark and District Afformy located of All Fourth Street, Yorka, CA, 96097.

David Andrew Bopp

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Time of parole eligibility - Decisions of parole agency

		EXHIB	T #2
EP-A0394	DA		
APR 10	DETAINER ACTION LETTER	Ė	J.S. DEPARTMENT OF JUSTICE EDERAL BUREAU OF PRISONS
	ers and mention of the	,	
305 BU	SHERIFF'S OFFICE ITTE STREET (A CA 98097	Institution FCI WoKesn Attn: Records P.C. Box 5000 Bradford, PA	9
		Date 05-17-2023	
Case #:	Inmate's Name:	Fed. Reg. No.	DOB/SEX/RACE
23cF01913	BOPP, DAVID ANDREW	16848-111	
Aliases		Other No.	
The below checked paragraph rela	tes to the above named inmate:		
This office is in receipt of	the following report: NCIC HIT, STALKIN	G,	
your desire to however, we will again in Locator Center at: 201 in Locator Center at: 202 in Finchosed is your detailer Vour latter dated noted. Tentative release of	offly you no later than 60 days prior to actu 97-5126 or check our BOP Incusto Locator warrant. Your detainer against the above n requests notification pri	IDER." If elease. To check on an Increate Website of Symbol Branch State of the Compiler of the Compiler of the Compiler of the release of the above named on the Stocke named immate with the release of the above named immate with the compiler of the Stocke named immate with the stocke named im	t'é location, you may est our National iance will- yeur request. sed priconer. Our records have been
	filed as a detain	er, please return it to us with a cov	
have il placad as a hold or	indicate you have no further interest in the	subject.	•
Other: TENTATIVE RELEAS	E DATE: _ <u>10-30-2023</u>	Sincerely.	
		J.Thomas, C.	S.O. / for of Systems Specialist (SCSS)
Original - Addressee, Copy - J Correctional Services Departm	udgment & Commitment File; Copy -	Inmate; Copy Central File (S	ection 1); Copy -
PDF	Prescribed by P5800	(F	Replaces BP-394(56) dtd MAR (03)
	Detai	ner ?	

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Why is this Self-Help?

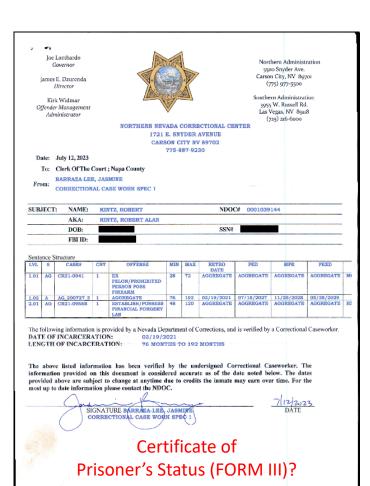
- Detainer not filed (possibly)
- Not on BOP/IAD Forms
- Prisoner personally mailed notice/request directly to prosecutor/court
- Mailing not sent by registered or certified mail, return receipt requested
- Certificate of Prisoner's Status not certified/signed by appropriate official having custody of the prisoner
- No Offer of Temporary Custody from Warden FORM IV

Self-Help

EXAMPLE

. THIS IS FOR FELONY DETAINERS ONLY. C	NS FOR THE INMATE FOLLOW EXACTLY ontact the NNCC Law Library for misdemeaner and gross misdemeaner.
 Fill-out two (2) copies of this document complete Attach a pre-addressed and pre-stamped envelope 	dy. with the Court's address to one copy and a pre-addressed and pre-
stamped envelope with the Prosecuting Officer	's address to the other copy. The name of the Prosecuting Officer can be uting Officer's address from the NNCC Law Library.
 Send these documents and envelopes to your case Incarceration be mailed with each document. 	ewarker with an Immate Request Form requesting a Verification of
name) NAPA COMETY D. A. OFFICE, AT	nu: ALISON HAVEY
address) 1127 Fiest Street, Soute C city, state) NAOR, CA 99559	
IN THE MAPA COONT	4 SUPERIOR COURT
OF THE STATE O	
THE STATE OF CACHOCAUA.	CASE NO. 21 CR 000 605
Plaintiff,	
vs.	NOTICE AND REQUEST FOR FINAL
ROBERT ALAN KINTZ	DISPOSITION PURSUANT TO THE AGREEMENT ON DETAINERS
(your name) Defendant.	
D.	A 1/
COMES NOW, the Defendant,	(your name)
forthern Nevada Correctional Center, 1721 E. Syno	fer Ave., Carson City, Nevada, 89701, to notify this Court
ursuant to The Agreement on Detainers that he or s	he requests FINAL DISPOSITION of this case and all other
ntried indictments, informations or complaints rela	ting thereto under Article III. Attached to this paper is a
Perification of Incarceration as required under Art.	III.a. Once the detainer has been logged against the Defendant, he
r she shall be brought to trail within 180 days after	written notice of this Notice and Request. Id. The Defendant
ereby waives extradition with respect to any charg	e or proceeding contemplated thereby or included therein by
eason of paragraph (D) of Art. III. Additionally, De	fendant consents to the production of his body in any court where
is presence may be required in order to éffectuate t	he purposes of The Agreement on Detainers, Pursuant to Art.
V.a., the governor of the sending state may disappr	ove the request for temporary custody or availability, either upon
is own motion or upon motion of the Defendant.	
DATED this 32 day of July	
tespectfully submitted,	
11416	
signature)	

	
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ROBERT ALM KINTZ #1039144

NOTHERN NEWAR CORRECTIONAL CENTER

1721 E. SHY BEL ANE.

1721 F. EST STREET, SUITE C

NARA, CA 94559

NARA, CA 94559

Registered or certified mail, return receipt requested?

Why is this Self-Help?

- Detainer not filed (possibly)
- Not on BOP/IAD Forms
- Prisoner personally mailed notice/request directly to prosecutor/court
- Mailing not sent by registered or certified mail, return receipt requested
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Respond

[NAME] [STREET ADDRESS] [CITY, STATE, ZIP] RE: California Penal Code, section 1389 Demand - Interstate Agreement on Detainers Dear [DEFENDANT]: We are in receipt of a request for disposition of charges or sentencing pursuant to PC § 1389, Interstate Agreement on Detainers (IAD). After researching the request, we are unable to proceed for the following reason(s): We are unable to locate any outstanding [warrant(s)] [charge(s)] [sentencing] based on the information provided. PC § 1389 (IAD) does not apply to probation or parole violations/revocation A detainer has not been lodged with the records personnel of the institution where the inmate is currently incarcerated; a detainer must be lodged before the provisions of PC § 1389 (IAD) apply. "Self-Help" procedures, such as a letter directly from the inmate, will not invoke the IAD; all requests for disposition under the IAD must proceed through prison officials The prisoner is not serving a term of imprisonment in a State or Federal Prison outside the State of California NOTE: PC § 1389 (IAD) only applies to prisoners serving a term of imprisonment outside the State of California in either a State or Federal Prison. If the prisoner is serving a term of imprisonment in a California State Prison or Federal Prison located in the State of California, the prisoner may be able to request trial or sentencing pursuant to either PC § 1381 or PC § 1381.5. Therefore, no action will be taken.

Trial by Sister County

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Article III(d): A prisoner who seeks a transfer under Article III is deemed to be requesting disposition of <u>ALL</u> charges in the prosecuting state *on which detainers have been lodged*

Failure to dispose of all detainers lodged before the prisoner's return to Sending State Custodial Authority will result in dismissal of those charges

Trial by Sister County

- Prisoner: untried criminal cases in 4 Receiving State Counties
 - Placer
 - Sacramento
 - Solano
 - Sonoma
- Receiving State Counties: 4 Detainers Filed with Sending State Custodial Authority
 - <u>3 Detainers</u> filed prior to Sending State
 Custodial Authority forwarding FORMs II, III &
 IV to prosecutors and courts
 - · Placer, Sacramento, Sonoma
 - <u>1 Detainer</u> filed after Sending State Custodial Authority forwarded FORMs II, III & IV to 3 Receiving State Counties
 - Solano

Trial by Sister County

- Solano: Inquires of Sending State Custodial Authority
- Sending State: Prisoner already in Placer County
- What to Do?
 - Contact all Counties
 - Become an Intermediary
 - · Introduce all Counties
 - Paperwork
 - FORM II
 - FORM VI
 - · Follow up
- Return Who is Responsible?

Other Oddities

