IN THE SUPREME COURT OF FLORIDA

COREY JAMAINE DOZIER,

Petitioner,

v.

CASE NO. SC15-2092
DCA CASE NO. 1D15-1427

STATE OF FLORIDA,

Respondent.

ON DISCRETIONARY REVIEW FROM THE FIRST DISTRICT COURT OF APPEAL

SECOND AMENDED JURISDICTIONAL BRIEF OF PETITIONER

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PRELIMINARY STATEMENT

Corey Jamaine Dozier was the defendant below in both the First District Court of Appeal and in the Circuit Court of the Fourth Judicial Circuit in and for Duval County. Mr. Dozier will be referred to in this brief as "Petitioner" or by his proper name. Respondent, the State of Florida, was the Appellee and prosecution below, and will be referred to herein as "Respondent" or "State."

INTRODUCTION AND JURISDICTIONAL STATEMENT

Petitioner filed a Petition for Writ of Prohibition with the First District Court of Appeal on April 26, 2015. The First District, after conducting oral arguments, entered a written opinion denying Petitioner relief on August 21, 2015. In its opinion and denial of rehearing, the First District employed a standard that clearly conflicts with the standard articulated by this Court, as well as by the Second and Fifth Districts.

The Court below affirmed the trial court's denial of Petitioner's Motions to Dismiss based on violations of speedy trial rights as articulated by the IADA. The Court found a lack of actual notice upon the prosecutor to be controlling despite the negligence of sending state and receiving state authorities and through no fault of Petitioner. Dozier v. State, 175 So.3d 322 (Fla. 1st DCA 2015). The Court's narrow construction of the IADA created a strict compliance standard in conflict with the standard

held applicable by this Court and the Second and Fifth Districts.

This holding, with respect to the requirements of the IADA and 941.45, Florida Statutes, expressly and directly conflicts with the Second District in State v. Roberts, 427 So.2d 787 (Fla. 2d DCA 1983) (holding that Florida is a substantial compliance state rather than a strict compliance state, and that the IADA should be liberally construed to effectuate its purpose.) Further, the First District's opinion expressly and directly conflicts with the Fifth District in Cox v. State, 389 So.2d 1028 (Fla. 5th DCA 1980). The Cox Court found that the failure of a Defendant to send a copy of his letter demanding speedy trial directly to the prosecutor and defendant's omission of some of the requirements of 941.45(3)(a), did not allow the state to hide behind the technical requirements of the rule.

Lastly, the district court's holding expressly and directly conflicts with this Court's holding in Torres-Arboledo v. State, 524 So.2d 403 (1988). This Court held in Torres-Arboledo, that substantial compliance can be met in one of two ways: 1)actual notice or 2)"a clear failure on the part of sending authorities to carry out their duties under the act." Id. At 413. Such failure existed in Petitioner's case, thus creating an express and direct conflict with this Court.

The Supreme Court of Florida has discretionary jurisdiction to review a decision of a district court of appeal that expressly and

directly conflicts with a decision of the Supreme Court or another district court of appeal on the same point of law. Art. V, §3(b)(3), Fla. Const.; Fla. R. App. P. 9.030(a)(2)(A)(iv).

STATEMENT OF THE CASE AND FACTS

The following testimony and facts are set forth in the district court's opinion, Dozier v. State, 175 So.3d 322 (Fla. 1st DCA 2015),at 323-324. The Petitioner was arrested on September 11, 2011, in Dorchester County, South Carolina, on charges of kidnapping, carjacking, and armed robbery. On the same date, a felony warrant issued in Duval County, Florida, for charges of grand theft auto and attempted murder. On April 13, 2012, the Petitioner entered a guilty plea to the South Carolina charges, and was received into the custody of Ridgeland Correctional prison. On the same date, the Jacksonville Sheriff's Office provided the Dorchester County Sheriff's Office with a detainer based on a sworn arrest affidavit and warrant, requesting a hold on the petitioner for the Florida charges.

The Petitioner mailed a handwritten letter on June 28, 2012, to the Jacksonville Sheriff's Office. In that letter, the Petitioner noted that he had charges pending in Duval County, and expressed that he was "serious about getting them taken care of as soon as possible." The letter advised that the Petitioner was at that time in the custody of the South Carolina Department of Corrections, and stated that the Petitioner was being held at

Ridgeland Correctional Institution. The Petitioner identified the Florida detectives who came to interview him on September 11, 2011. He requested repeatedly that the Duval County charges be resolved as soon as possible. On July 3, 2012, the Jacksonville Sheriff's Office responded with a letter directing Petitioner to contact the warden of his institution.

The Petitioner then submitted an inmate request directed to the Warden at Ridgeland Correctional Institution in South Carolina on October 11, 2012, which indicated that it was the Petitioner's "formal request for your assistance in reaching the final resolution" of the Florida charges, and indicated that the request was "being made pursuant to the interstate agreement for detainers" codified in the South Carolina Code of Laws at section 17-11-30, Article III. The request bore a handwritten note under the "Disposition by Staff Member" section which read, "Please process for IAD. He has detainers for the State of Florida." The South Carolina correctional officers did not appropriately forward this request. After apparently receiving no response to the October 11, 2012, inmate request, the petitioner filled out another inmate request on January 7, 2013, also directed to the Warden at Ridgeland Correctional Institution. The second request referred back to the October 11, 2012, request, and again indicated that it was the petitioner's formal request for disposition of the Duval County charges per the IADA. The "Disposition by Staff Member"

section on this second request read, "INMATE DOZIER: Your request is being handled by Classification." Neither the October 11, 2012, nor the January 7, 2013, request was served on the Jacksonville Sheriff's Office, the Duval County Circuit Court, or the Fourth Circuit State Attorney's Office.

The Petitioner then attempted to file a pro se motion to dismiss the Duval County charges per the IADA on August 29, 2013. This was a pro se pleading filed with the Duval Clerk of Court and was directed to the "chief judge" and "solicitor". It contained identifying information of petitioner to include his corrections number, facility, sentence he was serving, date of birth, last known address in Jacksonville, and the Detectives' names who came to visit him while he was in the custody of the Dorchester County Sheriff's Office.

The State obtained a three-count indictment against the petitioner on November 1, 2013, for first-degree murder, attempted first-degree murder, and theft of a motor vehicle. Upon appointment, counsel filed a renewed motion to dismiss per the IADA on March 27, 2014. The trial court denied both motions to dismiss. Id. at 324.

On April 26, 2015 Defendant filed a Petition for Writ of Prohibition with the First District Court of Appeal. Oral Arguments were held on July 29, 2015. The First District entered an Order denying Petitioner's requested relief on August 21, 2015

and a subsequent Order denying Petitioner's Motion for Rehearing on October 13, 2015. Petitioner timely filed a Notice of Intent to Invoke Discretionary Jurisdiction on November 12, 2015.

SUMMARY OF THE ARGUMENT

This Court should accept jurisdiction pursuant to rule 9.030(a)(2)(A)(iv), Florida Rules of Appellate Procedure. The First District's holding creates a standard that is irreconcilable with this Court's decision in Torres-Arboledo v. State, 524 So.2d 403 (1988), the Second District's decision in State v. Roberts, 427 So.2d 787 (Fla.2d DCA 1983), holding that Florida is a substantial compliance state, and the Fifth District's decision in Cox v. State, 389 So.2d 1028 (Fla. 5th DCA 1980). The district court's opinion expressly and directly conflicts with a previous decision of this Court and of other district courts.

ARGUMENT

THE DISTRICT COURT'S DECISION IN THIS CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH THIS COURT'S DECISION IN *TORRES-ARBOLEDO V. STATE*, 524 So.2d 403 (1988), THE FIFTH DISTRICT'S DECISION IN *COX V. STATE*, 389 SO.2D 1028 (FLA. 5TH DCA 1980), AND THE SECOND DISTRICT'S DECISION IN *STATE V. ROBERTS*, 427 SO.2D 787 (FLA. 2D DCA 1983)

In Torres-Arboledo v. State, 524 So.2d 403 (1988), this Court held that Florida is a substantial compliance state and where "a prisoner makes a good faith effort to bring himself within the Agreement's purview, and *omits nothing essential to the Agreement's*

operation, then his failure of strict compliance will not deprive him of its benefits." Id at 413. This Court further held that substantial compliance will be found in one of two circumstances: 1) actual notice to the receiving authorities or 2) "a clear failure by the sending authorities to carry out their obligations under the agreement." Id.

The district court's opinion in this case ignores the holding of Torres-Arboledo. The district court acknowledged the negligence on the part of South Carolina sending state officials in failing to forward or act upon petitioner's two written requests to the warden, seeking to invoke the protections of the IADA, but determined petitioner was not entitled to relief because of "none of the IADA requests were served on the prosecuting authority". Dozier v. State, 175 So.3d 322 (Fla. 1st DCA 2015), at 327. Accordingly, this holding expressly and directly conflicts with the standard for establishing substantial compliance with the IADA set forth by this Court in Torres-Arboledo.

The district court's holding in Dozier also expressly and directly conflicts with the Fifth District's decision in Cox v. State, 389 So.2d 1028 (Fla. 5th DCA 1980). In Cox, the defendant sent two handwritten letters from Maryland to the clerk's office in Florida, demanding speedy trial for Florida charges per the IADA. The defendant did not send a copy directly to the prosecutor. Defendant's letter omitted certain requirements of the

IADA, specifically a "certificate of the official having custody of the prisoner stating the term of commitment, the time already served, the time remaining, etc." Id. The Cox Court held that the failure of Defendant to send a copy directly to the prosecutor and the omission of certain technical requirements "did not allow the state to hide behind the technical requirements of the rule" and "did not excuse the state's failure to commence action" upon defendant's invocation of speedy trial. The Cox Court ultimately found the state to be barred from prosecuting the defendant because of a violation of speedy trial under the IADA. Id.

The facts of Petitioner's case are almost identical to those of Cox, except that Petitioner made even more attempts to invoke the protections of the IADA than the defendant in Cox. The district court's holding in Dozier that Petitioner was not entitled to relief because his lack of actual notice to the prosecuting authority does not meet the requirements of substantial compliance ignores the holding of the Fifth District in Cox. It expressly and directly conflicts with the decision of another district.

Lastly, the district court's holding in Dozier expressly and directly conflicts with the Second District's opinion in State v. Roberts, 427 So.2d 787 (Fla. 2d DCA 1983). The Roberts Court determined that Florida was a substantial compliance state for purposes of the IADA. Roberts further held that in the spirit of substantial compliance:

> [C]ourts have generally held that the Agreement does not require literal and exact compliance by the prisoner with the directions of the Agreement in order to avail itself of its benefits. If the prisoner makes a good faith effort to bring himself within the Agreement's purview, and omits nothing essential to the Agreement's operation, then his failure of strict compliance will not deprive him of its benefits.

Id. at 788.

Most importantly Roberts notes, "[t]o allow the state to hide behind the technical requirements of the rule would undermine the constitutional guarantee of a speedy trial." Id.

The district court in Dozier acknowledged no less than four attempts by Petitioner to invoke the protections of the IADA. Petitioner twice notified the warden of his institution in writing of his intention to invoke speedy trial under the IADA pursuant to the requirements spelled out in 941.45, Art. III(b), Florida Statutes. The district court further acknowledged the negligence of the sending state officials in failing to act upon his requests. Petitioner successfully served his requests upon the Jacksonville Sheriff's Office as well as upon the Clerk of Court for the Fourth Judicial Circuit.

The Dozier Court's decision that Petitioner did not establish substantial compliance expressly and directly conflicts with the Second District in Roberts and establishes a strict compliance standard not otherwise found in the State of Florida. In contradiction with Roberts, the district court so narrowly

construes 941.45 that it defeats the stated purpose and effect of the IADA. As set forth in Roberts, the purpose of the Act is to encourage the speedy resolution of pending foreign indictments, informations, or complaints. Thus, the district court's holding expressly and directly conflicts with the decision in Roberts, which holds that strict compliance is not required, and a good faith effort to bring himself within the Agreement's purview will not deprive a prisoner of its benefits. Id. at 788.

The First District's opinion creates a legal standard that expressly and directly conflicts with the legal standard for assessing substantial compliance with the IADA held applicable by this Court in Torres-Arboledo and by the Fifth District in Cox and the Second District in Roberts. That holding creates a strict compliance standard never before recognized by this state. This Court and the Fifth and Second Districts have reached correct interpretations of substantial compliance. The Court should accept discretionary review in this case to reaffirm the standards related to substantial compliance and quash the conflicting decision of the district court below on this important point of law.

CONCLUSION

For the foregoing reasons, the Court has discretionary conflict jurisdiction to review the district court's decision in this case, and should accept jurisdiction to decide the merits of Petitioner's argument and the decision below.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Second Amended Jurisdictional Brief of Petitioner has been furnished to Lauren Gonzalez, Assistant Attorney General, Office of the Attorney General, Pl-01, The Capitol, Tallahassee, Florida, 32301, by e-service to crimapptlh@myfloridalegal.com, on this 9th day of December, 2015.

S. Nicole Jamieson
Assistant Regional Conflict Counsel

CERTIFICATE OF TYPE SIZE AND STYLE

Counsel for Appellant certifies that the size and style of type used in this Jurisdictional Brief is 12 point Courier New.

APPENDIX

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IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

COREY JAMAINE DOZIER,

Petitioner,

v.

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_____/

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

CASE NO. 1D15-1427

Opinion filed August 21, 2015.

Petition for Writ of Prohibition -- Original Jurisdiction.

Jeffrey E. Lewis, Regional Conflict Counsel, Waffa J. Hanania and S. Nicole Jamieson, Assistant Regional Conflict Counsel, Yulee, for Petitioner.

Pamela Jo Bondi, Attorney General, Trisha Meggs Pate, Bureau Chief, and Lauren L. Gonzalez, Assistant Attorney General, Tallahassee, for Respondent.

PER CURIAM.

This is a petition for writ of prohibition seeking the petitioner's immediate discharge from the three charges currently pending against him, for one count each of first-degree murder, attempted first-degree murder, and grand theft auto. The petitioner asserts that his speedy trial rights under the Interstate Agreement on Detainers Act ("IADA") have been violated. We disagree, and we deny the petition.

Background

The petitioner was arrested on September 11, 2011, in Dorchester County, South Carolina, on charges of kidnapping, carjacking, and armed robbery. On the same date, a felony warrant issued in Duval County, Florida, for charges of grand theft auto and attempted murder. On April 13, 2012, the petitioner entered a guilty plea to the South Carolina charges, and the Jacksonville Sheriff's Office provided the Dorchester County Sheriff's Office with a detainer requesting a hold on the petitioner for the Florida charges on April 16, 2012.

The petitioner mailed a handwritten letter on June 28, 2012, to the Jacksonville Sheriff's Office. In that letter, the petitioner noted that he had charges pending in Duval County, and expressed that he was "serious about getting them taken care of as soon as possible." The letter advised that the petitioner was at that time in the custody of the South Carolina Department of Corrections, and stated that the petitioner was being held at Ridgeland Correctional Institution. The petitioner requested repeatedly that the Duval County charges be resolved as soon as possible.

On July 3, 2012, the Jacksonville Sheriff's Office responded with a letter stating that "[t]he Records Section of the Jacksonville Sheriff's Office is unable to provide you with the extradition processing information you have requested. The Correctional

facility you are currently in should be able to assist you in contacting the appropriate section for your inquiries."

The petitioner then submitted an inmate request directed to the Warden at Ridgeland Correctional Institution in South Carolina on October 11, 2012, which indicated that it was the petitioner's "formal request for your assistance in reaching the final resolution" of the Florida charges, and indicated that the request was "being made pursuant to the interstate agreement for detainers" codified in the South Carolina Code of Laws at section 17-11-30, Article III. The request bore a handwritten note under the "Disposition by Staff Member" section which read, "Please process for IAD. He has detainers for the State of Florida."

After apparently receiving no response to the October 11, 2012, inmate request, the petitioner filled out another inmate request on January 7, 2013, also directed to the Warden at Ridgeland Correctional Institution. The second request referred back to the October 11, 2012, request, and again indicated that it was the petitioner's formal request for disposition of the Duval County charges per the IADA. The "Disposition by Staff Member" section on this second request read, "INMATE DOZIER: Your request is being handled by Classification." Neither the October 11, 2012, nor the January 7, 2013, requests were served on the Jacksonville Sheriff's Office, the Duval County Circuit Court, or the Fourth Circuit State Attorney's Office.

The petitioner attempted to file a pro se motion to dismiss the Duval County charges per the IADA on August 29, 2013. The state obtained a three-count indictment against the petitioner on November 1, 2013, for first-degree murder, attempted first-degree murder, and theft of a motor vehicle. Counsel was appointed to represent the petitioner on the Duval County charges, and counsel filed a renewed motion to dismiss per the IADA on March 27, 2014. The trial court denied both motions to dismiss, finding that the first motion was procedurally barred because it was filed before the indictment, and there were accordingly no charges to dismiss at the time the first pro se motion to dismiss was filed. As to the second motion to dismiss, filed by counsel, the court found that the indictment was filed on November 1, 2013, and the defendant was not arrested until January 15, 2014 – the day he arrived in Duval County on the Florida charges. The court found that the petitioner's speedy trial rights attached on the date of the indictment, November 1, 2013, and the petitioner was therefore required to be brought to trial on or before April 25, 2014. That date had not yet passed when the order denying the motion to dismiss was rendered on April 8, 2014, and the motion was accordingly denied.

In the instant petition for writ of prohibition, the petitioner asserts that he is entitled to a discharge from all Duval County charges because he was entitled to a final disposition of the charges within 180 days of his IADA request. Under the petitioner's

reasoning, because he made his first request on June 28, 2012, his second request on October 11, 2012, and his third request on January 7, 2013, he was required to be brought to trial by July 6, 2013, at the latest.

Analysis

The IADA "is a compact entered into by forty-eight States, the District of Columbia, Puerto Rico, the Virgin Islands, and United States to establish procedures for the resolution of one jurisdiction's outstanding charges against a prisoner of another jurisdiction." Monroe v. State, 978 So. 2d 177, 179 (Fla. 2d DCA 2007) (citations omitted). Article III(a) of the IADA 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 or she shall be brought to trial within 180 days after the prisoner 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 or her imprisonment and the prisoner's request for a final disposition to be made of the indictment, information, or complaint; provided that, for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. 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.

§ 941.45, Fla. Stat. (2012). Article III(b) of the IADA requires that "[t]he written notice and request for final disposition referred to in paragraph (a) shall be given or sent by the prisoner to the warden, commissioner of corrections, or other official having custody of the prisoner, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested." Id. Once a request has been made per this provision, if the state fails to bring a defendant to trial within 180 days, dismissal of the detainer charges is mandated. See, e.g., State v. Roberts, 427 So. 2d 787 (Fla. 2d DCA 1983).

We conclude that relief is not warranted in this case for two reasons. First, the state argues that at the time of the petitioner's IADA request, even though a detainer had been filed, no "indictment, information, or complaint" yet existed that would trigger the IADA's application. No court of this state appears to have yet answered the question of whether a mere "detainer" pursuant to a felony arrest can constitute a "complaint" per the IADA. This is a question without a clear answer. For example, in United States v. Bottoms, 755 F.2d 1349 (9th Cir. 1985), the court held that a defendant was not entitled to a final disposition under the IADA where he had not been formally charged by indictment, information, or complaint. By contrast, the Court of Special Appeals of Maryland deemed the approach in Bottoms to be "hypertechnical," holding that a felony arrest warrant detainer is an "untried complaint" for purposes of

the IADA. See State v. Smith, 534 A.2d 371 (Md. Ct. Spec. App. 1987). In Crawford v. State, 669 N.E.2d 141 (Ind. 1996), the Supreme Court of Indiana followed Bottoms rather than Smith, noting that the common and correct practice was to give detainers a narrow scope. In State v. Moore, 774 S.W.2d 590 (Tenn. 1989), the Supreme Court of Tennessee, however, followed Smith in holding that an arrest warrant or detainer is sufficient to invoke the protections of the IADA because that holding was consistent with "the general practice of prosecuting officials in this and other states," though noting its concerns that "[p]roceeding on a bare warrant, however, obviously can produce situations of unusual complexity as shown by the facts of the instant case." Id. at 597.

We agree with the court's analysis in Bottoms and adopt that line of reasoning. The court in Bottoms defined "complaint" narrowly, as a term of art excluding warrants and detainers issued thereupon. 755 F.2d at 1350. The existence of the word "untried" in the IADA clause in question supports the conclusion that the IADA cannot be triggered solely by the filing of a detainer pursuant to a felony warrant. There is no such thing as an "untried warrant" or an "untried detainer" because a defendant may not be tried on a warrant or a detainer. The use of the word "untried" indicates that the words "indictment," "information," and "complaint" are meant to refer to charging documents. The word "complaint" refers to a type of a charging document, and does

not appear to have been intended to broaden the scope of the IADA provision in question beyond charging documents to arrest warrants and detainers. As the court in Bottoms concluded:

> . . . its use as the final of a series of three technical terms, all related in the meaning, precludes accepting his argument. The principles of *ejusdem generis* and common sense dictate that "complaints" be read as a legal word of art . . . . [t]he use of "untried" as the qualifier for all three words supports this conclusion.

755 F.2d at 1350. We disagree with Smith, which held that this approach "misinterpreted the statute, in favor of a strained reliance upon a rule that forced a conclusion that is contrary to the clear legislative intent." 534 A.2d at 373. To the contrary, we conclude that a structured and reasoned approach lead to the conclusion reached in Bottoms, which precludes relief in this case.

Even if we are mistaken on this point, relief is unavailable for a second reason. The IADA requires "substantial compliance" with the requirements of a request for a final disposition to trigger the IADA's protections. See, e.g., State v. Fay, 763 So. 2d 473, 475 (Fla. 4th DCA 2000). Here, the petitioner failed to demonstrate substantial compliance with the IADA's requirements. First, as the trial court's order denying the petitioner's motion to dismiss correctly noted, none of the IADA requests were served on the prosecuting authority. To the extent that the second and third requests were served on South Carolina prison officers, who failed to forward them to officials in the

state of Florida, substantial compliance is still not demonstrated because Florida officials cannot be held liable for the South Carolina officials' inaction. See Parker v. State, 539 So. 2d 1168 (Fla. 1st DCA 1989) (holding that, where a defendant provided an IADA notice to Pennsylvania correctional officers and those officers failed to forward it, "[s]ince the lack of notice was not due to any action or inaction on the part of Florida officials, the state of Florida was not precluded from proceeding against appellant") (citing Welch v. State, 528 So. 2d 1236 (Fla. 1st DCA 1988); Colt v. State, 440 So. 2d 409 (Fla. 1st DCA 1983); Williams v. State, 426 So. 2d 1121 (Fla. 1st DCA 1983)). And although the first "notice" – the letter mailed by the petitioner on or about July 10, 2012 - was served on the Jacksonville Sheriff's Office, despite mentioning the petitioner's desire for a speedy disposition of the Duval County charges, it was neither served on the prosecuting authority nor the lower tribunal, nor was it accompanied by a certificate from the petitioner's correctional institution.

Conclusion

The petitioner's requests for a final disposition were insufficient to trigger the speedy trial protections of the IADA because, at the time that they were made, no "information, indictment, or complaint" had yet been filed and, in any event, the requests were not substantially compliant with the requirements for a request for a final

disposition under the IADA. The petitioner's speedy trial rights under the IADA were not violated in these circumstances. We therefore deny the petition.

RAY, SWANSON, and MAKAR, JJ., CONCUR.