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July 22, 2005
The state state file
a response to Mr.
Steever's motion to
NO. 54910-3
Strike appended by
August 15, 2005.

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

May S. Nell
Commissioner

STATE OF WASHINGTON,

78464-7

Appellant,

v.

DENNIS DEAN STEEVER,

Respondent.

BRIEF OF APPELLANT

NORM MALENG
King County Prosecuting Attorney

DEANNA JENNINGS FULLER
Senior Deputy Prosecuting Attorney
Attorneys for Respondent

King County Prosecuting Attorney
W. 554 King County Courthouse
516 Third Avenue
Seattle, Washington 98104
(206) 296-9525
Fax 296-2901

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ORIGINAL

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A. ASSIGNMENTS OF ERROR

1. The trial court in King County erred in finding that speedy trial was not tolled under CrRLJ 3.3(g)(5) while the defendant was in jail in another county by order of another court.
2. The trial court erred in dismissing the case against Steever for the State's violation of Steever's speedy trial rights.
3. The RALJ superior court erred in failing to follow the decision of the Washington Supreme Court in Seattle v. Guay, 150 Wn.2d 288 (2003).

B. ISSUES PRESENTED

1. On August 7, 2003, the trial court granted defendant Steever's motion to dismiss on grounds his speedy trial rights were violated, declining to exclude speedy trial time under CrRLJ 3.3(g)(5) while Steever was in custody out of county. Steever was in the Yakima County Jail on commitment orders issued by the municipal courts of the City of Burien and the City of Seattle while charges were pending in this case in King County District Court. On September 11, 2003, the Washington Supreme Court decided Seattle v. Guay, 150 Wn.2d 288, 76 P.3d 231 (2003), holding that such time is tolled under the plain language of the rule. There is no mechanism that provides intrastate transport of misdemeanants county to county. The Superior Court affirmed the trial court's decision after the Guay decision was issued, ruling that because the

municipalities are located in King County, time did not toll while Steever was in Yakima County Jail. Should this court reverse the lower court decisions because they conflict with Guay ?

C. STATEMENT OF THE CASE

The defendant, Dennis Steever, (“Steever”) was charged in King County District Court on August 6, 2002 with Driving While Under the Influence, RCW 46.61.502, DWLS 1°, RCW 46.20 and Hit and Run Unattended with Property Damage, RCW 46.52.010(2). Those offenses occurred in King County on July 14, 2002, and filed under King County Causes CQ530668KC and Y20050103.¹

The court mailed notice of arraignment and a copy of the complaints to Steever. He failed to appear for arraignment on August 15, 2002 and a warrant issued. He was booked on the warrant on November 1, 2002 at which time the court noted he also was in jail on a Seattle Municipal Court hold. Steever appeared in court on these matters the next day. He bonded out of custody on November 6, 2002. He again failed to appear for a hearing November 27, 2002. On December 4, 2002, a bench warrant was issued. Steever was booked into the King County Jail on

¹ The case was first filed in Southwest District Court (now King County District Court, South Division) on August 6, 2002, under CQ53068KC (DUI, DWLS) and Y20050103 (Hit and Run); the cases were joined. The cases were then transferred to Seattle District Court (King County District Court, West Division, Seattle) on January 24, 2003. The district court will hereinafter be referred to as “KCDC”.

January 19, 2003. According to the docket, Steever was also being held on Seattle Municipal and SeaTac Municipal Court matters. Docket. On January 23, 2003, he was arraigned on the KCDC charges; the next day the case was transferred to the Seattle District Court Jail Division.

Steever posted bond on January 31, 2003. However, the docket indicates the defendant remained in custody. He apparently was in jail at the Regional Justice Center (“RJC”) in Kent. On February 19, 2003, he appeared with counsel and moved to continue proceedings, signing a waiver through April 30, 2003.

A hearing scheduled for March 19, 2003 was not held because it was continued at the request of the defense; according to the docket Steever was in Yakima on a City of Burien case, serving a sentence from that court. On March 24, 2003, the State asked for a bench warrant so that the defendant could be brought to King County following his release in Yakima. The warrant was issued March 31. On June 4, 2003, the warrant was served.² A hearing was scheduled for June 5. Another hearing was held June 9, 2003. On June 23, 2003, the defense moved to continue proceedings. Defense motions for release or to reduce bail were denied. On July 2, 2003, Steever again did not appear; it was reported that he had

²The record does not indicate where the warrant was served, but indicates defendant was booked in the King County Jail on it.

bailed out on June 29, 2003. He was not in custody at the King County Jail. Defense counsel stated that Steever might be on work release from other courts. Docket. Defense counsel requested a continuance that was granted to July 10, 2003. Written notice was given to defense counsel; Steever's failure to appear was noted on the docket but no bench warrant was issued.

On July 10, 2003, defense counsel requested the case be set over to a hearing on a motion to dismiss for speedy trial violation. Bond was posted for Steever on July 16, 2003. A motion hearing was scheduled for July 31, 2003. Steever moved to continue. The hearing was held on August 7, 2003 at which time the court dismissed all charges with prejudice on grounds the State violated the defendant's right to a speedy trial for failing to transport him from the Yakima jail. The court noted the uncertainty of the law in this area and contemplated an appellate court's resolution of the issue.³ RP 9-12.

On September 11, 2003, the Washington Supreme Court issued its opinion in City of Seattle v. Guay (and State v. Ackerman), 150 Wn.2d 288, 76 P.3d 231 (2003).

The State appealed the trial court's decision in King County Superior Court Cause No. 03-1-04753-4 SEA. The Honorable Judge

Wesley SaintClair affirmed the trial court and found that the present case differed substantially from Seattle v. Guay. Appendix A.

C. ARGUMENT

1. THE TRIAL COURT ERRONEOUSLY GRANTED STEEVER'S MOTION TO DISMISS BECAUSE SPEEDY TRIAL WAS TOLLED DURING THE PERIOD OF TIME HE WAS IN CUSTODY IN YAKIMA COUNTY ON NON-KING COUNTY CHARGES.

The trial court granted the defendant Steever's motion to dismiss on grounds his right to a speedy trial was violated. The court erroneously found that speedy trial expired on the KCDC cases while Steever was in jail in Yakima County on commitments ordered by the municipal courts of the City of Seattle and the City of Burien. The KCDC court ruled that the State should have transported Steever within the expiration of his case in the KCDC court. However, speedy trial was tolled under then-in-effect CrRLJ 3.3(g)(5)⁴ during the period of time the defendant was in Yakima County on non-King County charges. The superior court erred in affirming that decision. The State urges this court to reverse the ruling of the trial court because the trial court applied the wrong legal principle based on an incorrect standard, prior to and without the benefit of the

³ "RP" designates the report of proceedings for the August 7, 2003 hearing conducted in Seattle District Court by the Honorable Barbara Linde.

⁴ CrRLJ 3.3 was broadly amended September 1, 2003. The current CrRLJ 3.3(e)(6) is

Washington Supreme Court's decision issued in Seattle v. Guay, 150 Wn.2d 288, 76 P.3d 231 (2003). The superior court's decision should be reversed because it erroneously held that Guay was not controlling because the municipal courts that committed Steever to jail in Yakima County are geographically located in King County.

a. Standard of Review

An appellate court reviews a trial court's order on a motion to dismiss for speedy trial purposes for manifest abuse of discretion. Seattle v. Guay/ State v. Ackerman, 150 Wn.2d 288, 76 P.3d 231 (2003), citing State v Everybodytalksabout, 145 Wn.2d 456, 478, 39 P.3d 294 (2002). . A court abuses its discretion where the court applies the wrong legal principle, or where the decision was manifestly unreasonable, or where it was based on untenable grounds or reasons. City of Bellevue v Vigil, 66 Wn. App. 891, 895 (1992). A court acts on untenable grounds if (1) its factual findings are unsupported by the record, (2) it used an incorrect standard, (3) the facts do not meet the requirements of the correct standard, or (4) if its decision is outside the range of acceptable choices, given the facts and the legal standard. State v Runquist, 79 Wn. App 786, 793, 905 P.2d 922 (1995). Here, the trial court used an incorrect standard to determine whether a speedy trial violation occurred. It relied on a legal

identical to the former CrRLJ 3.3(g)(5).

principle recognized in State v. Anderson, 121 Wn.2d 852, 855P.2d 671 (1993), that is not applicable to courts of limited jurisdiction. Guay, supra. The trial court did not have the benefit of the Washington Supreme Court's decision in Guay, supra, which answers the issue directly. Guay clearly demonstrates the erroneous analysis of the trial court in its dismissal of Steever's case here. The superior court's decision, entered after Guay was decided, reflects a misunderstanding of and was contrary to the holding of Guay.

b. Speedy Trial Was Tolloed During the Period of Time Defendant Was In Custody in Another County.

CrRLJ 3.3(g) Excluded Periods. The following periods shall be excluded in computing the time for . . . trial: (5) **The time during which a defendant is detained in jail or prison outside the county in which the defendant is charged . . .**

(Emphasis added.)

A defendant's multiple misdemeanor charges pending simultaneously in several different municipal and district court jurisdictions create substantial difficulties for those courts. One of the most difficult responsibilities for those courts is protecting speedy trial rights of those persons with multiple concurrent charges pending in a variety of misdemeanor courts. CrRLJ 3.3(g)(5), now CrRLJ 3.3(e)(6),

addresses the issue. The exclusion of time provision of CrRLJ 3.3(g)(5) has been clearly interpreted by the Washington Supreme Court in accordance with the State's position in this matter before the trial court and the superior court.

If this court were to accept the decisions of the lower courts in this case, it would reward the most prolific and mobile misdemeanants in the State. If Mr. Steever didn't have such a chronic history of offenses, the various courts would not have such a task trying to keep track of him.⁵ As the Guay court noted, the problems (created by mobile, chronic misdemeanor offenders) involve questions that need to be resolved through a legislative process. Guay, 150 Wn.2d at 301. The allocation of costs in developing a mechanism for transport and release alone is a significant legislative question. The court quered, “. . . which county must incur the expense of transporting the defendant? Is the defendant transported back to the original holding county after his hearing and which county bears that expense? How is transport funded generally? What procedure must be followed? Where must the transfer process be initiated: in the receiving county or holding county? May the receiving county compel release before the term is served in the holding county?”

⁵ For the court's convenience, Steever's misdemeanor record is summarized in App. B.

Id.⁶

In the specific situation before this court, it is not only counties that have to determine allocation of costs, the municipalities across the State of Washington have to be involved as well because their budgets and resources are also at issue. In addition, it would have to be determined what responsibilities should be shouldered by prosecutors, court clerks or police agencies. In short, there is a long list of concerns a legislative process would need to address before this court, or any court, creates duties of the district and municipal courts beyond the court's authority to do so. The powers of the courts of lower jurisdiction are limited to those created by the legislature.

The court in Seattle v. Guay, 150 Wn.2d 288, 76 P.3d 231 (2003), (hereafter, "Guay") reasoned that the State is not required to exercise due diligence or good faith to transport an incarcerated misdemeanant from one county to another because there is no mechanism to do so. One court of limited jurisdiction, in order to transport, cannot compel a person's release from another county jail when he has been incarcerated by the authority of another jurisdiction. The plain language of CrRLJ(g)(5) excluded the time during which defendants Guay and Ackerman were in

⁶Attached as Appendix C for the court's convenience is a compilation of several statutes that specify detailed procedures regulating transport and release of felons in this state.

custody out of King County, where charges pending in the Seattle Municipal Court (Guay) and King County District Court (Ackerman) were the subject of motions to dismiss.

In Guay, both defendant Guay's and Ackerman's periods of time in custody out of county were excluded under CrRLJ 3.3(g)(5). The court succinctly held:

We hold that there is no mechanism available to courts of limited jurisdiction to facilitate and compel the transport of misdemeanor defendants between county jails of this state. **We distinguish between being amenable to criminal process and being amenable to transport to court.**

While courts of limited jurisdiction have the inherent authority to issue a transfer order to obtain a misdemeanor defendant's presence in court, this authority does not establish a mechanism that compels the holding county to **release** the defendant. We hold that CrRLJ 3.3(g)(5) does not contain a due diligence or good faith requirement because the rule's plain language does not reflect such obligations. As such, the time during which each Petitioner was incarcerated in another county is excluded from their speedy trial calculations . . .

Guay 150 Wn.2d at 291-292. (Emphasis added).

Steever's claim is identical to the claims made by Guay and Ackerman, although he attempts to distinguish Guay by claiming that the fact that he was committed on orders of municipal courts located in King

County means the exclusion under CrRLJ 3.3(g)(5) does not apply. He is wrong.

Steever had multiple charges pending in different jurisdictions, including King County. He was not available for court in KCDC court proceedings because during the relevant period of time at issue here, Steever was incarcerated in Yakima County Jail pursuant to orders of commitment from both the City of Seattle Municipal Court and the City of Burien Municipal Court. The State could only ask KCDC court to issue a bench warrant to ensure that upon release, the defendant would be brought before the KCDC court as soon as practicable.

As Guay clarifies, the authority of superior courts is different than that of district and municipal courts because the lower courts do not have a statutory mechanism that the superior courts do to require uniform inter-institutional release and/or transport, of prisoners. Unlike requirements the State must follow, for example, under uniform procedures for superior courts to transport a felony defendant from an out-of-state prison into the state for superior court trial, no such procedures exist at the level of the courts of limited jurisdiction in this State. There are no analogous requirements of the State to bring misdemeanants to trial in pending courts when they are incarcerated by other jurisdictions in other counties within the state. Thus there is no requirement of the exercise of good faith and

due diligence to satisfy the execution of a [currently non-existent] mechanism. There simply is no uniform mechanism available to facilitate and compel the transfer of misdemeanor defendants between the various county jails. Therefore, the time defendants spend in another county jail is excluded from their speedy trial calculation in the pending jurisdiction, under the plain language of CrRLJ 3.3(g)(5). Thus, a defendant's right to a speedy trial is not violated when that out of county time is thereby tolled, or excluded for speedy trial calculations.

Superior courts are authorized under the constitution and by statute to exercise their authority statewide. On the other hand, district courts have only as much power and authority as the legislature specifically creates for them by statute, and no statute permits a district court to exercise its power beyond its own county borders unless it is to affect a case ultimately within its own jurisdiction. RCW 3.66.100. There is no equal protection violation because speedy trial issues differ between superior courts and lower courts. Substantial differences between the two levels of courts have been held not to violate equal protection, for example, in the felony versus non-felony sentencing schemes of Washington. In re Mayner, 107 Wn.2d 512, 516, 730 P.2d 1321 (1986).

RCW 3.66.100 provides:

Territorial jurisdiction -- Process --
Limitation. (1) Every district judge having
authority to hear a particular case may issue
criminal process in and to any place in the
state.

This statute authorizes the King County court's warrant to be effective statewide, insofar as arresting defendant on its own case. In addition, as the Guay court recognized, certain inherent powers are vested in the courts of limited jurisdiction by RCW 2.28. However, Guay held that neither RCW 3.66.100 nor RCW 2.28 vests power in any court of limited jurisdiction to override the jurisdictional custody of a person committed by another court. That is, it does not authorize the KCDC court to remove defendant to King County while he is in custody in Yakima County by orders of non-KCDC courts.

RCW 3.66.100, *supra*, was examined in State v. Davidson, 26 Wn.App. 623, 613 P.2d 564 (1980). There, a King County (Seattle) District Court judge issued a search warrant to search premises in Snohomish County. The evidence found in the search led to charges being filed in Snohomish County. The King County court had no authority to hear the resulting case because no element of the crime was committed within King County. Thus, the evidence that was seized pursuant to the search warrant was suppressed. The Court of Appeals affirmed the suppression ruling:

(1) The boundaries of the county ordinarily define a district court's territorial jurisdiction in criminal matters. RCW 3.66.060. For the issuance of criminal process, the legislature has expanded this jurisdiction to the entire state if the district court has the authority to hear the case. RCW 3.66.100. It is undisputed that the crimes alleged in this case occurred entirely outside King County and could not be prosecuted there. RCW 3.66.060. Without the authority to hear the matter, the Seattle District Court had no jurisdiction under RCW 3.66.100 to issue a warrant to search premises in Snohomish County.

. . . (2) The jurisdiction of courts of limited jurisdiction must clearly appear in a statute. See McCall v. Carr, 125 Wash. 629, 216 P.2d 871 (1923). Statewide territorial jurisdiction does not clearly appear in RCW 69.50.509. It is silent on that question. It merely authorizes courts to command 'any law enforcement officer of the state' to search, and it does not address the question of the territorial limits on the court's authority to order a search.

Finally, the court rejected an argument that because the former JCrR 3.3 (now CrRLJ 2.3 and 4.9) authorized issuance of "criminal process to any person anywhere in the state" and JCrR 2.10 authorized the issuance of search warrants, that a search warrant as a form of process should be valid statewide.

We, however, reject this contention because it attempts to enlarge the statutorily created territorial jurisdiction of the justice courts in

violation of the state constitution. Under Const. Art. 4, §§ 1, 10 (amendment 65) and 12, the legislature has the sole authority to determine the powers, duties and jurisdiction of justices of the peace and such other inferior courts as the legislature may establish. [cites omitted.] Const. Art. 4, §1 provides: The judicial power of the state shall be vested in a supreme court, superior courts, justices of the peace, and such inferior courts as the legislature may provide.; Const. Art. 4, § 10 (amendment 65) provides in part: "the legislature shall . . . prescribe by law the powers, duties and jurisdiction of justices of the peace . . . ' Const. Art. 4, § 12 provides: 'The legislature shall prescribe by law the jurisdiction and powers of any of the inferior courts which may be established in pursuance of this Constitution.'

Thus, while issuance of a search warrant may be a procedural matter subject to regulation by court rules, the territorial limits of an inferior court's authority to issue a warrant is jurisdictional and subject to the constitutional requirement that it be defined by statute. ". . . the absence of legislation here creating territorial jurisdiction is an absolute bar to its exercise . . ." Davidson at 628.

Any reliance on State v. Anderson, 121 Wn.2d 852, 855 P.2d 671 (1993), to argue that the State was required to transport defendant from Yakima County in order to protect his speedy trial rights in King County

is misplaced, though the underlying principle is sound.⁷ The trial court in this case erroneously relied on Anderson. RP 10-12.

In Anderson, supra, defendant was charged in Snohomish County with burglary. Prior to coming to trial on that charge, defendant was arrested and placed in federal custody on another matter. While in federal custody, he demanded a speedy trial with Snohomish County, but received no response. The prosecutor had not filed an interstate detainer against defendant, so defendant was unable to make a statutory demand for speedy trial under that statute. (RCW 9.100, Interstate Agreement on Detainers, "IAD"). The superior court denied his motion to dismiss on speedy trial grounds when he was brought to trial many months later. The Court of Appeals reversed, holding that the CrR 3.3(g)(6) exclusion of time spent by defendant in federal jail or prison did not apply, that the time in federal custody had to be included in counting the days under his speedy trial right ". . . because of the State's failure to act in good faith and with due diligence in seeking return of Respondent Anderson to Washington state jurisdiction to stand trial on the burglary charge." Anderson at 853. The Supreme Court affirmed the Court of Appeals.

⁷ Anderson involved felony charges in Superior court, but to the extent possible, provisions of the time for trial rules applicable to courts of limited jurisdiction (CrRLJ 3.3) are construed consistently with substantially similar provisions of the time for trial rule applicable to Superior Courts (CrR 3.3) and juvenile courts (JuCR 7.8). State v. Grilley, 67 Wn.App. 795, 840 P.2d 903 (1992).

The Supreme Court held that the due diligence requirement of the State in bringing an accused to trial within the time limits of the speedy trial rule " . . . requires the State to make a diligent and good faith effort to secure the presence of an accused from another jurisdiction **if a mechanism is available to do so. The IAD, RCW 9.100, is such a mechanism.**" Anderson, supra, at 858. (Emphasis added). The dissent pointed out the clear and unambiguous language of the rule in excluding time spent in another state or federal custody under CrR 3.3(g)(6), but the majority held that if the mechanism existed by which Anderson could exercise his speedy trial rights, the mechanism must be initiated. The State was thus required to initiate IAD proceedings. Such action would have demonstrated the requisite due diligence, and would have resulted in defendant Anderson's ability to make a transport request to protect his speedy trial rights in the State court.

Here, however, as in Guay, the defendant cannot identify any statutory intrastate mechanisms in Washington State analogous to interstate extradition and detainer powers noted by the Supreme Court in Anderson. Therefore, he cannot demonstrate amenability to transport, a precedent to the State's obligation to exercise good faith and due diligence. State v. Roman, 94 Wn.App. 211, 972 P.2d 511, rev.den., 138 Wn.2d 1014 (1999). The Supreme Court in Guay understood the

significant distinctions between superior court and district court (or municipal) court powers. While there may be informal methods to bring a prisoner from another county to stand trial in a requesting/demanding county, (but not of record here), there is nothing uniform or statutory to ensure or require it. There are no set procedures or requirements in place. As the Guay court noted, the requesting county could not compel release of a misdemeanor held by the order of another jurisdiction who has primary authority over that commitment, even if a uniform method of transport is devised.

“We hold there is no mechanism available to courts of limited jurisdiction to facilitate and compel the transport of misdemeanor defendants between county jails of this state. While we hold that Petitioners were each amenable to criminal process while incarcerated, we distinguish that from being amenable to transport to court. The plain language of RCW 2.28.150 confers upon courts of limited jurisdiction the inherent authority to issue an order for the transport of misdemeanor defendants serving time outside county lines. However, this authority alone is insufficient to constitute a mechanism that compels the holding county to release a misdemeanor defendant in accordance with the transport order. We decline to read elements of good faith and due diligence into CrRLJ 3.3(g)(5), as was done with CrR 3.3(g)(6) in Anderson and hold that Anderson is not persuasive in this case because there is no mechanism that compels the transport of misdemeanor

defendants between counties in this state.
Anderson is further distinguishable due to
the incongruent wording between the rule in
that case and the rule here. . . .⁸

Id at 304.

Thus, the only principle of Anderson relevant here is that where a mechanism is in place to assure release and uniform transport, then the State must exercise good faith and due diligence to effectuate that release and transport. A “mechanism” as defined by the Anderson court, however, is not one that is an arbitrary and uncertain methodology by which a misdemeanor may be brought to district or municipal court from another county. Thus, the fact that the trial court here signed a transport order for another person similarly situated (pending trial King County, incarcerated Yakima County) who was successfully transported to King County does not mean that there is a “mechanism” in place as defined by the Guay and Anderson courts. There clearly was no “mechanism” in

⁸**CrR 3.3(g) Excluded periods. (6)** The time during which a defendant is detained in jail or prison *outside the state of Washington* or in a federal jail or prison and the time during which a defendant is subjected to conditions of release not imposed by a court of the State of Washington; (Emphasis added.). **CrRLJ 3.3(g) Excluded Periods. . . . (5)** The time during which a defendant is detained in jail or prison *outside the county* in which the defendant is charged or in a federal jail or prison and the time during which a defendant is subjected to conditions of release no imposed by a court of the State of Washington;

place by which the King County District Court could require defendant be released from the custody of Yakima County Jail in order to be transported to the King County Jail, contrary to the commitments by the Seattle and Burien municipal courts. Thus, the trial court's reasoning that if one defendant could be brought, so could this defendant, is flawed because of the very uncertainty illustrated by this inconsistency. The mere *possibility* of successful transport does not equate with a "mechanism" as defined by the supreme court. Steever thus fails to demonstrate he is *amenable* to transport.

The superior court's reasoning that Guay is distinguishable is wrong. While it is true that the cities of Burien and Seattle are located in King County, those municipalities still are the governing authorities with regard to the incarceration of their misdemeanants, under their jurisdictions. King County District Court is another separate authority and jurisdiction and cannot unilaterally remove those defendants from jail who have been committed there by order of other courts. The superior court's reasoning in this case below that Steever's case is different from Guay reflects a misunderstanding of Guay's holding and of CrRLJ 3.3(g)(5). Physical geography alone does not determine authoritative jurisdiction with regard to this issue.

District court powers and authority are different from those of the superior courts, and in this instance, district courts do not have a mechanism analogous to superior courts' IAD proceedings or otherwise which authorizes taking defendant out of the Yakima County jail to transport him to King County. As the Guay court held, the duty of good faith and due diligence do not inhere in CrRLJ 3.3(g)(5) for speedy trial purposes.

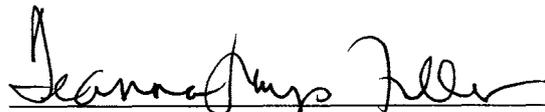
D. CONCLUSION

Based on the foregoing, the State respectfully requests that this court reverse the decisions of the courts below and remand this matter for trial.

Dated this 22d day of April, 2005.

Respectfully submitted,

Norm Maleng
King County Prosecuting Attorney


DEANNA JENNINGS FULLER, WSBA #7914
Senior Deputy Prosecuting Attorney
Attorney for Petitioner

APPENDIX A

J. Wesley Saint Clair

FILED

KING COUNTY WASHINGTON

AUG 10 2004

SUPERIOR COURT CLERK
BY ANNE C. SMART
DEPUT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR THE COUNTY OF KING

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State of Washington,)	Case No.: No. 03-1-04753-4 SEA
)	
Appellant,)	ORDER ON CRIMINAL MOTION
)	
vs.)	
)	
DENNIS STEEVER,)	
)	
Appellee)	

14 The above entitled Court, having heard a motion concerning a district
 15 court ruling on the issue of a violation of the speedy trial rule, CrRLJ 3.3
 16 (g) (5), for the defendant Steever during a time while he was incarcerated in
 17 Yakima County Correctional Facility on a City of Burien and City of Seattle,
 18 the Court, having considered the arguments, briefs, and statements of the
 19 parties

20
 21 IT IS HEREBY ORDERED AND AJUDGED
 22 That the district court judge did not abuse their discretion in finding that
 23 the state did not present the defendant for process in a timely fashion and
 24 therefore did violate the defendant rights under CrR1J3.3(g) (5).
 25 The Court specifically finds that the District Court did not err in finding
 that under these specific facts and circumstances, which differs

1 substantially from State vs. Guay 150 W 2n 288 (2003), that the defendant's
2 rights were violated and that the state was required to exercise due
3 diligence in obtaining the defendant's physical presence for court
4 proceedings. Although Mr. Steever, an inmate of Yakima County Jail, under
5 city (Burien and Seattle) jurisdiction, was housed outside of King County, he
6 was housed in Yakima because of the fiscal circumstances which would have
7 otherwise have had the defendant housed within King County which specifically
8 does not toll speedy trial pursuant to the same rule.

9

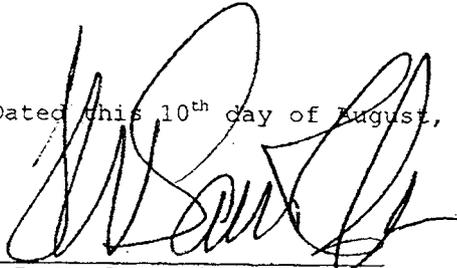
10 This court does affirm the ruling of the District Court Judge.

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Dated this 10th day of August, 2004



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J. Wesley Saint Clair
Judge

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APPENDIX B

EG1050MI Defendant Name Duplicate (DND) STATEWIDE COURT DB2P PUB 1 of 1

DCH Case: _____ Csh: _____ Pty: _____ StID: _____
Name: STEEVER, DENNIS DEAN NmCd: IN _____

CONFIDENTIAL--NOT FOR PUBLIC RELEASE

Add New Name: _ (Y/N)

Name: STEEVER, DENNIS DEAN Sex: M Ht: 5 9 StID: 10092155
NmCd: IN 52B 31470 True name Race: W Wt: 210 DrLic: STEEVDD535K5
DOB: 05/25/1947 DOC: 622209

Name: STEEVER, DENNIS M Sex: M Ht: 5 9
NmCd: IN 889 78754 AKA/DBA: A Race: W Wt: 177 DrLic: STEEVDM524K5
DOB: 05/25/1948

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 1 of 9

Case: CQ01096BU Csh: Pty: StId: D STEEVDD535K5 WA
Name: STEEVER, DENNIS DEAN NmCd: IN 52B 31470

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More>

True Name: STEEVER, DENNIS DEAN IN 52B 31470
AKA's: STEEVER, DENNIS; STEEVER, DENNIS M

48 Cases
2 Aliases

S	N	Case	LEA	Ty	Crt	Date	Violation	Short Title	DV	Jg	CD	W	F	O
---	---	Y30241593	KCP	CN	AUK	08/01/03	ASSAULT 4TH DEGREE		N	D	CL			
						08/01/03	RESISTING ARREST		N	D				
---	---	Y30241593	KCP	CN	SWD	08/01/03	RESISTING ARREST		N	AM		N		
						08/01/03	CRIMINAL ATTEMPT		N	G				
---	---	Y30241593	KNJ	PC	SWD	08/01/03	ASSAULT		N	D	CL			
						08/01/03	PC - RESISTING ARREST		N	D				
---	---	432945	SPD	CT	SMC	01/19/03	SUSP.OL 1ST		N	G		#	#	
						01/19/03	NO INTERLOCK		N	DW				
---	---	2YC003724	WSP	CT	PD1	11/11/02	DUI		N	G		N	A	
						11/11/02	DWLS 1ST DEGREE		N	G				

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	PER	AKA	CDK	PLS	CDT	BWD	FWD	DOL	COS	CFHS	EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 2 of 9

Case: CQ01096BU Csh: Pty: StId: D STEEVDD535K5 WA

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48 Cases

AKA's: STEEVER, DENNIS; STEEVER, DENNIS M

2 Aliases

Violation

--- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
-	-	CQ01096BU	BUR	CT	SWD	10/21/02	OPER VEH. W/OUT IGNITION INTE	N	G	CL			
-	-	CQ01095BU	BUR	CT	SWD	10/21/02	DWLS 1ST DEGREE	N	G				
-	-					10/21/02	HIT AND RUN ATTENDED VEHICLE	N	G				
-	-	Y20050103	KCP	CT	SDC	07/14/02	HIT AND RUN UNATTENDED VEHICL	N	DW		N		
-	-	CQ53068KC	KCP	CT	SDC	07/14/02	DUI	N	DW		N		
-	-					07/14/02	DWLS 1ST DEGREE	N	DW				
-	-	Y20050103	KCP	CT	SWD	07/14/02	HIT AND RUN UNATTENDED VEH/PR	N	CV	TR	N		
-	-	CQ53068KC	KCP	CT	SWD	07/14/02	DUI	N	CV	TR	N		
-	-					07/14/02	DWLS 1ST DEGREE	N	CV				
-	-	CQ53068KC	KNJ	PC	SWD	07/14/02	DRIVING WHILE INTOXICATED	N	D	CL	*	*	

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
 HELP PER AKA CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 3 of 9

Case: CQ01096BU Csh: _____

Pty: _____ StId: D STEEVDD535K5 WA

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2 Aliases

Violation

--- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
---	---	CQ53068KC	KNJ	PC	SWD	07/14/02	HIT AND RUN	N	D	CL	*	*	---
---	---					07/14/02	DRIVING WHILE LICENSE SUSPEND	N	D				---
---	---	423602	SPD	CT	SMC	07/02/02	SUSP.OL 1ST	N	G		#	#	---
---	---					07/02/02	FALSE REPORT	N	D				---
---	---	CQ50196BU	BUR	CT	SWD	02/09/02	DWLS 1ST DEGREE	N	G			N	---
---	---	CQ50195BU	BUR	CT	SWD	02/09/02	HIT AND RUN ATTENDED VEHICLE	N	G			N	---
---	---					02/09/02	NEGLIGENT DRIVING 1ST DEGREE	N	G				---
---	---	CQ0012791	KCP	CT	STM	01/19/00	DUI	N	G			N	I
---	---					01/19/00	DWLS 1ST DEGREE	N	D				---
---	---	309028	SPD	CT	SMC	04/29/97	H/R ATTENDED			AM		#	#

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
 HELP PER AKA CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 4 of 9

Case: CQ01096BU

Csh:

Pty:

StId: D STEEVDD535K5 WA

Name: STEEVER, DENNIS DEAN

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IN 52B 31470

48 Cases

AKA's: STEEVER, DENNIS; STEEVER, DENNIS M

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Violation

--- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
-		309028	SPD	CT	SMC	04/29/97	H/R UNATTEND	G			#	#	
						04/29/97	SUSP.OL.2ND	G					
						04/29/97	NEG. DR	G					
-		CQ01732BU	BUR	CT	SWD	02/12/97	DWLS 3RD DEGREE	G		CL	*	*	
						02/12/97	NEGLIGENT DRIVING FIRST DEGRE	D					
-		CP38400BU	BUR	CT	SWD	02/12/97	DUI	AM		CL		N	
						02/12/97	NEGLIGENT DRIVING FIRST DEGRE	G					
-		CP38355KC	KCP	CT	RDC	12/20/96	DUI	CV		CL		N	
						12/20/96	DWLS 3RD DEGREE	CV					
-		CP38355KC	KCP	CT	SDC	12/20/96	DUI	G		CL		N	

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
 HELP PER AKA CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 5 of 9

Case: CQ01096BU

Csh:

Pty:

StId: D STEEVDD535K5 WA

Name: STEEVER, DENNIS DEAN

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IN 52B 31470

48 Cases

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Violation

--- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
		CP38355KC	KCP	CT	SDC	12/20/96	DWLS/R - 3RD DEGREE	G		CL	N		
		CP50875KC	KCP	CT	SDC	12/06/96	NEGLIGENT DRIVING FIRST DEGRE	G		CL	*	*	
						12/06/96	DWLS/R - 3RD DEGREE	G					
		K00325272	KNP	IT	KEM	05/16/96	FAIL TO WEAR SAFETY BELT	C					
						05/16/96	OP MOT VEH W/OUT LIAB INS	C					
						05/16/96	FLD TO DRIVE ON RIGHT SIDE OF	C					
		K00008056	KNP	CT	KEM	05/16/96	NO VALID OPER LICENSE W/OUT I	DO		CL	*	*	
		K00008054	KNP	CT	KEM	05/16/96	DUI	N		GD	CL	N	
						05/16/96	DWLS 3RD DEGREE	N		GD			
		C00115933	WSP	CN	SDC	06/29/95	OBSTRUCTING A LAW INFORCEMENT	G		CL	*	*	

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
 HELP PER AKA CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 6 of 9

Case: CQ01096BU Csh: Pty: StId: D STEEVDD535K5 WA

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CONFIDENTIAL--NOT FOR RELEASE

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True Name: STEEVER, DENNIS DEAN IN 52B 31470

48 Cases

AKA's: STEEVER, DENNIS; STEEVER, DENNIS M

2 Aliases

Violation

--- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
		C00115933	WSP	CN	SDC	06/29/95	HARASSMENT	G		CL	*	*	
		C00115932	WSP	CT	SDC	06/29/95	DUI	G		CL	N		
						06/29/95	DWLS/R - 3RD DEGREE	D					
		BUN034243	BUR	CT	SWD	10/05/94	DWLS 3RD DEGREE	G		CL	*	*	
A		I00015363	ELP	IT	ELM	08/24/94	OP MOT VEH W/OUT LIAB INS	N	C				I
		7687944	WSP	IT	LCD	03/18/94	OP MOT VEH W/OUT LIAB INS	C		CL			A
		7687943	WSP	CT	LCD	03/18/94	DWLS 3RD DEGREE	G		CL	*	*	
						03/18/94	FAIL TO TRANSFER TITLE-45 DAY	G					
		7409806	WSP	IT	EGD	06/29/93	OP MOT VEH W/OUT LIAB INS	C		CL			A
						06/29/93	FAIL TO WEAR SAFETY BELT	C					

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
 HELP PER AKA CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 7 of 9

Case: CQ01096BU Csh: Pty: StId: D STEEVDD535K5 WA
 Name: STEEVER, DENNIS DEAN NmCd: IN 52B 31470

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More>

True Name: STEEVER, DENNIS DEAN IN 52B 31470 48 Cases
 AKA's: STEEVER, DENNIS; STEEVER, DENNIS M 2 Aliases
 Violation --- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
-	-	7409805	WSP	CT	EGD	06/29/93	DUI		G	CL	N	N	
						06/29/93	FAIL TO COMPLY		D				
-	-	13210	GHS	IT	GH1	10/18/92	SPEEDING 13 MPH OVER LIMIT (O		C	CL	*	*	
						10/18/92	OP MOT VEH W/OUT LIAB INS		C				
-	-	71579	TKP	IT	TKM	01/29/91	FAILURE TO SIGNAL		C			N	
						01/29/91	FAILURE TO DISPLAY INSURANCE		C				
-	-	71578	TKP	CT	TKM	01/29/91	DRIVING IN VIOL OF FINANCIL R		AM			N	
						01/29/91	NO VALID DRIVERS LICENSE		G				
						01/29/91	FAILURE TO RESPOND TO NOTICE		D				
-	-	47726	SPD	CT	SMC	12/28/90	NO VALID OP		N	G	CL	#	#

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
 HELP PER AKA CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

Case: CQ01096BU

Csh:

Pty:

StId: D STEEVDD535K5 WA

Name: STEEVER, DENNIS DEAN

NmCd: IN 52B 31470

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: STEEVER, DENNIS DEAN

IN 52B 31470

48 Cases

AKA's: STEEVER, DENNIS; STEEVER, DENNIS M

2 Aliases

Violation

--- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
		4777725	SPD	CT	SDC	11/14/90	FTR AFTER WRITTEN PROMISE TO	D		CL	*	*	
		43084	SPD	CT	SMC	11/14/90	SUSP.OL.	N	AM	CL	#	#	
						11/14/90	NO VALID OP	N	G				
		6363419	WSP	CT	FWD	10/17/90	DRIVING WHILE LICENSE SUSPEND	AM	CL	*	*		
						10/17/90	NO VALID DRIVERS LICENSE	G					
						10/17/90	WILFUL NON-APPEARANCE AFTER W	G					
		J00088868	KCP	CT	SWD	09/25/90	DWLS	G	CL	*	*		
		893500376	SPD	CT	SMC	12/15/89	NO VALID OP	G			#	#	
		893320386	SPD	CT	SMC	11/27/89	NO VALID OP	G			#	#	
		J00038976	KCP	CT	SWD	11/17/89	DRIVING IN VIOL OF FINANCIAL	G	CL	*	*		

PF1 PF2 PF3 PF4 PF5 PF6 PF7 PF8 PF9 PF10 PF11 PF12
 HELP PER AKA CDK PLS CDT BWD FWD DOL COS CFHS EXIT

DN2001MI Defendant Case History (DCH)

STATEWIDE COURT DB2P PUB 9 of 9

Case: CQ01096BU Csh: Pty: StId: D STEEVDD535K5 WA

Name: STEEVER, DENNIS DEAN NmCd: IN 52B 31470

CONFIDENTIAL--NOT FOR RELEASE

More>

True Name: STEEVER, DENNIS DEAN IN 52B 31470

48 Cases

AKA's: STEEVER, DENNIS; STEEVER, DENNIS M

2 Aliases

Violation

--- Status ---

S	N	Case	LEA	Ty	Crt	Date	Short Title	DV	Jg	CD	W	F	O
		J00029349	KCP	CN	SWD	09/24/89	CARRYING WEAPON WITHOUT PERMI	G	CL	*	*		
		K00114380	KNP	CT	AUK	08/14/89	NO VALID DRIVERS LICENSE	G			N	N	
		03-1-04753-4	S1	S17		08/15/03	OTHER NON-CHARGE	N	N	CM			
		92-1-00398-1	S1	S37			THEFT-2 (NOT FIREARM)	G	CM	O			

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP	PER	AKA	CDK	PLS	CDT	BWD	FWD	DOL	COS	CFHS	EXIT

A P P E N D I X C

West's RCWA 9.98.010

CWest's Revised Code of Washington Annotated CurrentnessTitle 9. Crimes and Punishments (Refs & Annos)Chapter 9.98. Prisoners--Untried Indictments, Informations, Complaints**→ 9.98.010. Disposition of untried indictment, information, complaint-- Procedure--Escape, effect**

(1) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of this state, and whenever during the continuance of the term of imprisonment there is pending in this state any untried indictment, information, or complaint against the prisoner, he shall be brought to trial within one hundred twenty days after he shall have caused to be delivered to the prosecuting attorney and the superior court of the county in which the indictment, information, or complaint is pending written notice of the place of his imprisonment and his 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 his counsel shall have the right to be 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 superintendent 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 indeterminate sentence review board relating to the prisoner.

(2) The written notice and request for final disposition referred to in subsection (1) hereof shall be given or sent by the prisoner to the superintendent having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting attorney and superior court by certified mail, return receipt requested.

(3) The superintendent having custody of the prisoner shall promptly inform him in writing of the source and contents of any untried indictment, information, or complaint against him concerning which the superintendent has knowledge and of his right to make a request for final disposition thereof.

(4) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in subsection (1) hereof shall void the request.

CREDIT(S)

[1999 c 143 § 33; 1959 c 56 § 1.]

HISTORICAL AND STATUTORY NOTES

Laws 1999, ch. 143, § 33, near the end of subsec. (1), substituted "the indeterminate sentence review board" for "the board of prison terms and paroles"; and, near the end of subsec. (2), substituted "certified mail" for "registered mail".

LIBRARY REFERENCES

2003 Main Volume

Convicts  5.

Westlaw Topic No. 98.

C.J.S. Convicts § 9.C.J.S. Prisons and Rights of Prisoners § 61.

West's RCWA 9.100.010

C

West's Revised Code of Washington Annotated Currentness

Title 9. Crimes and Punishments (Refs & Annos)

Chapter 9.100. Agreement on Detainers (Refs & Annos)

→ 9.100.010. Agreement on detainers--Text

The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

TEXT OF THE AGREEMENT ON DETAINERS

The contracting states solemnly agree that:

ARTICLE I

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

ARTICLE II

As used in this agreement:

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

ARTICLE III

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint: PROVIDED, That for good cause shown in open court, the prisoner or his 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

West's RCWA 9.100.010

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.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of correction or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of correction or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of correction or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

ARTICLE IV

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V(a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated: PROVIDED, That the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request: PROVIDED FURTHER, That there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate 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. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request or availability and of the reasons therefor.

West's RCWA 9.100.010

(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V(e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

ARTICLE V

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(i) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(ii) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

West's RCWA 9.100.010

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or effect [affect] any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

ARTICLE VI

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

ARTICLE VII

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide within and without the state, information necessary to the effective operation of this agreement.

ARTICLE VIII

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

ARTICLE IX

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

CREDIT(S)

[1967 c 34 § 1.]

LIBRARY REFERENCES

2003 Main Volume

West's RCWA 9.100.050

West's Revised Code of Washington Annotated Currentness

Title 9. Crimes and Punishments (Refs & Annos)

 Chapter 9.100. Agreement on Detainers (Refs & Annos)

→ **9.100.050. Giving over inmate authorized**

It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers.

CREDIT(S)

[1967 c 34 § 5.]

LIBRARY REFERENCES

2003 Main Volume

Prisons  13.

Westlaw Topic No. 310.

C.J.S. Prisons and Rights of Prisoners § 20.

UNITED STATES SUPREME COURT

Hearing, as a matter of statutory construction, prisoner incarcerated in jurisdiction that has adopted Uniform Criminal Extradition Act is entitled to procedural protections of that act, particularly right to pretransfer hearing, before being transferred to another jurisdiction pursuant to article of Interstate Agreement on Detainers providing procedure by which prosecutor of receiving state may initiate transfer, see Cuyler v. Adams, U.S.Pa.1981, 101 S.Ct. 703, 449 U.S. 433, 66 L.Ed.2d 641.

West's RCWA 9.100.050, **WA ST 9.100.050**

Current with 2005 legislation effective through April 4, 2005

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END OF DOCUMENT

West's RCWA 72.68.020

C

West's Revised Code of Washington Annotated Currentness

Title 72. State Institutions (Refs & Annos)

Chapter 72.68. Transfer, Removal, Transportation--Detention Contracts (Refs & Annos)

→ 72.68.020. Transportation of prisoners

- (1) The secretary shall transport prisoners under supervision:
- (a) To and between state correctional facilities under the jurisdiction of the secretary;
 - (b) From a county, city, or municipal jail to an institution mentioned in (a) of this subsection and to a county, city, or municipal jail from an institution mentioned in (a) of this subsection.
- (2) The secretary may employ necessary persons for such purpose.

CREDIT(S)

[1992 c 7 § 57; 1979 c 141 § 283; 1959 c 28 § 72.68.020. Prior: 1955 c 245 § 1. Formerly RCW 9.95.181.]

HISTORICAL AND STATUTORY NOTES

The 1979 amendment, in two locations, substituted "secretary" for "director" and "subparagraph" for "subdivision".

Source:

Former § 9.95.181.
Laws 1955, ch. 245, § 1.

LIBRARY REFERENCES

2004 Main Volume

Prisons  13.5(1).
Westlaw Topic No. 310.
C.J.S. Prisons and Rights of Prisoners § § 130 to 138.

West's RCWA 72.68.020, **WA ST 72.68.020**

Current with 2005 legislation effective through April 4, 2005

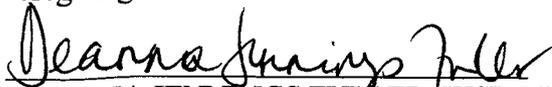
Certificate of Service by Mail

Today I deposited in the mails of the United States of America, postage prepaid, a properly stamped and addressed envelope directed to CHRISTINE A. JACKSON, , attorney for the Defendant/Respondent, at

**The Defender Association
810- Third Avenue, Suite 800
Seattle, WA 98101**

The envelope contained a copy of the revised Appellant's Brief to the Court of Appeals, Division One, in STATE OF WASHINGTON V DENNIS D. STEEVER, Cause No. 54910-3-I, in the Court of Appeals, Division One for the State of Washington. In addition, I emailed a copy of the same to Ms. Jackson at her email address at chris.jackson@defender.org

I certify under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct.


DEANNA JENNINGS FULLER, WSBA# 7914
Done in Seattle, Washington

4-22-05
April 22, 2005

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