

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

FEX v. MICHIGAN

CERTIORARI TO THE SUPREME COURT OF MICHIGAN

No. 91-7873. Argued December 8, 1992—Decided February 23, 1993

Indiana and Michigan are parties to the Interstate Agreement on Detainers (IAD), Article III(a) of which provides that a prisoner of one party State who is the subject of a detainer lodged by another such State must be brought to trial within 180 days "after he shall have caused to be delivered" to the prosecuting officer and the appropriate court of the latter State a request for final disposition of the charges on which the detainer is based. Petitioner Fex, a prisoner in Indiana, was brought to trial in Michigan 196 days after he gave such a request to Indiana prison authorities and 177 days after the request was received by the Michigan prosecutor. His pretrial motion pursuant to Article V(c) of the IAD, which provides for dismissal with prejudice if trial does not commence within the 180-day period, was denied on the ground that the statutory period did not begin until the Michigan prosecutor received his request. His conviction was set aside by the Michigan Court of Appeals, which held that the 180-day period was triggered by transmittal of his request to the Indiana officials. The State Supreme Court summarily reversed.

Held: It is self evident that no one can have "caused something to be delivered" unless delivery in fact occurs. The textual possibility still exists, however, that *once delivery has been made*, the 180 days must be computed from the date the prisoner "caused" that delivery. Although the text of Article III(a) is ambiguous in isolation, common-sense indications and the import of related provisions compel the conclusion that the 180-day period does not commence until the prisoner's disposition request has actually been delivered to the court and prosecutor of the jurisdiction that lodged the detainer against him. Delivery is a more likely choice for triggering the time limit than is causation of delivery because the former concept is more readily identifiable as a point in time. Moreover, if

delivery is the trigger, the consequence of a warden's delay in forwarding the prisoner's request will merely be postponement of the starting of the 180-day clock, whereas if causation is the trigger, the consequence will be total preclusion of the prosecution, even before the prosecutor knew it had been requested. Delivery as the critical event is confirmed by the fact that the IAD provides for documentary evidence of the time of receipt (by requiring the request to be sent "by registered or certified mail, return receipt requested," Article III(b)), but nowhere requires a record of when the request is transmitted to the warden (if that is what constitutes the "causation"). Finally, it is unlikely that if transmittal were the critical event the IAD would be so indifferent as to the manner of transmittal. Article III(b) says only that the request "shall be *given or sent*" (emphasis added). Fex's "fairness" and "higher purpose" arguments are more appropriately addressed to the legislatures of the States that have adopted the IAD. Pp. 3-9.

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439 Mich. 117, 479 N. W. 2d 625, affirmed.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and WHITE, O'CONNOR, KENNEDY, SOUTER, and THOMAS, JJ., joined. BLACKMUN, J., filed a dissenting opinion, in which STEVENS, J., joined.