IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES

UNITED STATES, Appellee v. Eric C. BABBITT Logistics Specialist Second Class (E-5) U.S. Navy, Appellant	BRIEF ON BEHALF OF APPELLANT Crim. App. Dkt. No. 201900305 USCA Dkt. No. 25-0220/NA

TO THE JUDGES OF THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES:

Jesse B. Neumann
LT, JAGC, USN
Appellate Defense Counsel
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374
Phone: (202) 685-7087
jesse.neumann2.mil@us.navy.mil
CAAF Bar No. 37933

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Reply

The Government's position ignores both binding authority and the IADA's purpose by erroneously asserting an unsupported and overly narrow definition of a detainer.

A detainer is defined as "a notification filed with the institution in which a prisoner is serving a sentence, advising that he is wanted to face pending criminal charges in another jurisdiction."[1] "[T]he provisions of the Agreement [IADA] are triggered only when a State that has untried charges pending against the prisoner files a 'detainer' with the custodial State."[2]

Despite never providing an alternative definition, the Government erroneously asserts that in order for the IADA to be triggered, the detainer must: (1) be specifically "filed at the military brig;"[3] (2) specifically identify itself as a detainer;[4] (3) mention the specific outstanding charges on which the detainer is

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[1] *United States v. Mauro,* 436 U.S. 340, 359 (1978) (quoting H. R. Rep. No. 91-1018, p. 2 (1970); S. Rep. No. 91-1356, p. 2 (1970)); *United States v. Bramer*, 43 M.J. 538, 545 (N-M. Ct. Crim. App. 1995) (quoting *United States v. Bamman*, 737 F.2d 413, 415 (4th Cir. 1984)); *see United States v. Greer*, 21 M.J. 338, 340 (C.M.A. 1986).
[2] *Mauro*, 436 U.S. at 343.
[3] Gov. Answer at 18.
[4] Gov. Answer at 23.

based;[5] and (4) be more than an "informal discussion."[6] The Government's entire argument rests on this narrow and meritless interpretation.

A. The Government's narrow interpretation of a detainer conflicts with its own assertion that a detainer must be "filed."

The Government contends that, in order to trigger the IADA, a request for a prisoner must be "filed" directly with the *brig*.[7] But the Government then provides a definition for "file" that requires delivery to *court officials*.[8] Certainly, a brig is not a court, nor are its employees court officers or clerks. Regardless, the Government's definition of "filing" is precisely what happened here—the Commonwealth of Virginia delivered its request for custody of Appellant to officers of the court.[9] And those officers had an affirmative duty to enforce and effectuate the purpose of the IADA.[10]

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[5] Gov. Answer at 24. Please Note: On page 24, the Government asserts that "the emails fail to mention the specific criminal charges *or the indictment Virginia issued against Appellant*," but earlier acknowledged that in the same emails "[t]he Assistant Commonwealth's Attorney wrote: 'Thank you very much for this information. If you could hold off on sending him out of state so that we can get him served *on our indictments* and tried, that would be best . . .'" Gov. Answer at 6 (quoting JA at 81) (emphasis added).

[6] Gov. Answer at 19-21, 23, 25.

[7] Gov. Answer at 17-19.

[8] Gov. Answer at 19 ("The primary definition of the verb 'file' in *Black's Law Dictionary* is '[t]o deliver a legal document to the court clerk or record custodian for placement into the official record.' *Black's Law Dictionary* 660 (8th ed. 2004)").

[9] JA at 81.

[10] 18 U.S.C. app. § 5.

The Government's answer further asserted that the Commonwealth of Virginia's request could *not* be a filing because "[n]either definition encompasses the informal email communications here."[11] Notably, the Government "filed" that assertion with this Court through email communication.

The Government's narrow—and conflicting—interpretation of a "detainer" is erroneous. Accordingly, their argument fails.

B. A detainer does not need to be "filed" at the brig in order to trigger the IADA.

The IADA's language does not expressly limit itself to situations in which a detainer is filed at the brick-and-mortar facility in which a prisoner is incarcerated. Indeed, the IADA discusses detainers being "*lodged* against the prisoner" and "presentation of a written request for temporary custody or availability to *the appropriate authorities of the State* in which the prisoner is incarcerated[.]"[12] Moreover, the IADA asserts that it "shall be *liberally* construed so as to effectuate its purposes."[13]

Regardless, even if this Court finds that the conversation between Virginia officials and Navy court officers was not a detainer, that conversation provides clear evidence that a detainer was subsequently lodged with the *appropriate*

[11] Gov. Answer at 20.
[12] 18 U.S.C. app. § 2, art. III, IV (emphasis added).
[13] 18 U.S.C. app. § 2, art. IX.

authorities. Six days after Appellant's sentencing, the Navy prosecutor specifically informed the Virginia prosecutor "[y]our office would need to submit a written transfer request (I'll send you the POCs and what needs to be in the request)."[14] Further, the subsequent delivery agreement for Appellant's custody is between the Commonwealth of Virginia prosecutor and the Naval Consolidated Brig Chesapeake, Virginia (the Chesapeake brig). Accordingly, the Government is patently wrong when it states that "[t]here is no evidence in the Record that the Virginia prosecutors ever contacted Naval Consolidated Brig Charleston [sic], where Appellant was being held *after he was convicted.*"[15] Therefore, whether by direct or circumstantial evidence, the record is clear that a detainer was lodged against Appellant thereby triggering the IADA.[16]

C. The Government's overly formal interpretation of what constitutes a detainer permits circumvention of the IADA's stated purpose.

The Government is firm in its assertion that a detainer must be a formal demand for custody delivered specifically to the brig that is holding the prisoner.[17] But such unfounded pedantry permits a complete circumvention of the IADA's stated purpose of "encourage[ing] the expeditious and orderly disposition" of a

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[14] JA at 79.
[15] Gov. Answer at 18. From his pre-trial confinement on Aug. 22, 2022, until his transfer to Virginia custody on Feb. 15, 2024, Appellant was held at the *Chesapeake* brig—not Charleston. *See* JA at 43, 113.
[16] 18 U.S.C. app. § 2, art. III.
[17] Gov. Answer at 17-21.

prisoner's outstanding charges "which obstruct programs of prisoner treatment and rehabilitation."[18]

Following Virginia's post-trial request for Appellant, he was held at the Chesapeake brig for 197 days before being transferred.[19] After his case in Virginia, Appellant was returned to the Chesapeake brig.[20] As of today, Appellant has spent a total of 543 days (311 of which were post-trial) in the Chesapeake brig.[21] However, as a Level I military confinement facility (MCF), the Chesapeake brig is only authorized for "90 days or less remaining in confinement after [the] adjudged date."[22] Undoubtedly, this policy of limiting confinement at Level I MCFs is informed by the lack of programs for prisoner treatment and rehabilitation compared to Level II or III MCFs:

[18] 18 U.S.C. app. § 2, art. I.
[19] JA at 113.
[20] Appellant was in the custody of the Commonwealth of Virginia for 581 days from February 14, 2024, to September 11, 2025. Counsel can provide documentation regarding Appellant's return to Navy custody on request.
[21] Appellant was confined in the Chesapeake brig from August 1, 2023, to February 2024, and has been confined there again since his return on September 11, 2025.
[22] U.S. DEP'T OF NAVY, BUPERSINST 1640.18M, U.S. NAVY DESIGNATED PLACES OF SHORE CONFINEMENT, encl. 1 (Apr. 17, 2024).

> 3. Levels II and III MCFs. Levels II and III MCFs. Levels II and III MCFs must provide core and level I programs plus drug and alcohol treatment, stress and anger management, vocational training, functional skills testing, academic education, remedial education, high school level education classes or general equivalency diploma, sex offender education or treatment access, and violent offender education or treatment access. Programs at level II and III MCFs shall be based on a needs assessment of the prisoner population.

[23]

Among the programs missing at the Chesapeake brig, is the non-violent sex-offender treatment specifically contemplated in Appellant's plea agreement.[24]

In sum, Appellant's access to programs of prisoner treatment and rehabilitation has been obstructed since his sentence was handed down two and a half years ago. Addressing such obstruction and delay is the IADA stated purpose. The Government's inappropriately narrow interpretation of what constitutes a "detainer" permits complete circumvention of that stated purpose. And such interpretation constitutes a violation because the IADA "shall be *liberally* construed so as to effectuate its purposes."[25] Moreover, the Navy's willful avoidance in this matter constitutes a further violation of the IADA because "[a]ll courts, departments, agencies, officers, and employees of the United States and of the District of Columbia are hereby directed to *enforce* the agreement on

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[23] U.S. DEP'T OF NAVY, SEC'Y OF NAVY MANUAL 1640.1, DEPARTMENT OF THE NAVY CORRECTIONS MANUAL, sec. 6201 (May, 15, 2019).
[24] JA at 38.
[25] 18 U.S.C. app. § 2, art. IX.

detainers[.]"[26] Therefore this Court should find that the Navy has wrongfully refused to comply with the IADA.

Conclusion

Appellant respectfully requests this Court either set aside 581 days of Appellant's sentence as incorrect in law, or set aside the entire sentence and order a sentence rehearing.

Respectfully submitted,

Jesse B. Neumann
LT, JAGC, USN
Appellate Defense Counsel
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374
Phone: (202) 685-7087
jesse.neumann2.mil@us.navy.mil
CAAF Bar No. 37933

Appendix

A. 18 U.S.C. app. § 2-9.

B. U.S. DEP'T OF NAVY, BUPERSINST 1640.18M, U.S. NAVY DESIGNATED PLACES OF SHORE CONFINEMENT, encl. 1 (Apr. 17, 2024).

C. U.S. DEP'T OF NAVY, SEC'Y OF NAVY MANUAL 1640.1, DEPARTMENT OF THE NAVY CORRECTIONS MANUAL, sec. 6201.

[26] 18 U.S.C. app. § 5.

Certificate of Compliance

This brief complies with the type-volume limitations of Rule 21 and 37 because it contains 1,346 words, and it has been prepared in 14-point, Times New Roman font.

Jesse B. Neumann
LT, JAGC, USN
Appellate Defense Counsel
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374
Phone: (202) 685-7087
jesse.neumann2.mil@us.navy.mil
CAAF Bar No. 37933

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I certify that a copy of the foregoing was delivered to the Court and delivered to the Director, Appellate Government Division (Code 46), at DACCode46@navy.mil and to the Deputy Director, Administrative Support Division, Navy-Marine Corps Appellate Review Activity (Code 40), at Joshua.D.Ricafrente.civ@us.navy.mil on January 8, 2026.

Jesse B. Neumann
LT, JAGC, USN
Appellate Defense Counsel
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374
Phone: (202) 685-7087
jesse.neumann2.mil@us.navy.mil
CAAF Bar No. 37933