



Conan L. Helsley brings this interlocutory appeal of the trial court's order denying his motion for discharge pursuant to Indiana Criminal Rule 4(C). Helsley presents the following restated issue for review: Did the trial court improperly deny his motion for discharge?

We affirm and remand for trial.

In early April 2008, Helsley and another inmate escaped from the Branchville Prison in Perry County, Indiana, where Helsley was serving time for a number of felony convictions out of Vanderburgh County and Warrick County. On the evening of April 15, 2008, a caller notified the Warrick County Sheriff's Department of Helsley's presence at a local business. When officers responded, Helsley led them on a high-speed chase, which eventually ended with the stolen vehicle driven by Helsley colliding with an oncoming vehicle. After being interviewed by Indiana State Police officers at the Warrick Security Center, the escapees were transported to the Department of Correction (DOC) facility in Plainfield. The DOC later transferred Helsley to a higher security facility, the Wabash Valley Correctional Facility, where he remains today.<sup>1</sup>

On April 23, 2008, the State charged Helsley in Warrick County with resisting law enforcement, receiving stolen auto parts, and criminal recklessness with a vehicle. The trial court found probable cause and issued an arrest warrant shortly thereafter. No other action took place on the case until the trial court received a letter from Helsley on or about January 7, 2010. In said correspondence, Helsley inquired about the pending charges for which he had never been served with an arrest warrant.

On January 19, the trial court scheduled an initial hearing for February 1 and issued an order of transport. Helsley was served with the arrest warrant on January 29 and transported from the DOC for the hearing, where he was appointed counsel. After another hearing, a jury trial was set for June 29, 2010. On April 5, 2010, Helsley filed a motion for discharge pursuant to Criminal Rule 4(C). Following a hearing, the trial court denied Helsley's motion on May 3, 2010. Helsley now brings this interlocutory appeal.

Helsley argues that the trial court improperly denied his motion for discharge under Criminal Rule 4(C) because he was not brought to trial within one year of the date charges were filed against him. Specifically, Helsley claims that he was "initially arrested, subsequently charged by Information, remained incarcerated, then was served with an arrest warrant some 21 months later." *Appellant's Brief* at 1.

Rule 4 (C) provides in relevant part:

No person shall be held on recognizance or otherwise to answer a criminal charge for a period in aggregate embracing more than one year from the date the criminal charge against such defendant is filed, or from the date of his arrest on such charge, whichever is later; except where a continuance was had on his motion, or the delay was caused by his act, or where there was not sufficient time to try him during such period because of congestion of the court calendar[.] ... Any defendant so held shall, on motion, be discharged.

"The one-year time limitation of the rule commences with the latter of two events, the date of defendant's arrest or the filing of the information." *Caldwell v. State*, 922 N.E.2d 1286, 1289 (Ind. Ct. App. 2010), *trans. denied*. See also *State ex rel. Penn v. Criminal Court of Marion County, Division III*, 389 N.E.2d 21, 22 (Ind. 1979) ("the sanctioned one-year period is

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<sup>1</sup> Helsley was convicted, in Perry County, of escape and sentenced to eight years in prison on January 14, 2009. With his prior convictions and his escape conviction, Helsley's earliest possible release date is

activated when the latter of two events has occurred, those two events being: (1) the filing of a formal charge and (2) the arrest of the accused on such formal charge”).

In the instant appeal, Helsley glosses over the salient fact that he was a prison escapee from another county at the time of his capture in Warrick County. Upon his arrest on April 15, 2008, he was promptly returned to the custody of the DOC to continue serving his time for a number of prior felonies. Thus, although he remained incarcerated at all times following this arrest, it was not as a result of the subsequently filed charges in Warrick County. Rather, he remained incarcerated in another county on unrelated charges/convictions.

Further, Helsley ignores well-established law that when a defendant is incarcerated in another county on unrelated charges, arrest for purposes of Rule 4(C) does not occur until his return is ordered by the court wherein the subsequent charges have been filed. *See State v. Helton*, 625 N.E.2d 1277 (Ind. Ct. App. 1993). *See also Landrum v. State*, 428 N.E.2d 1228 (Ind. 1981). That occurred in this case on or about January 19, 2010.

The trial court properly denied Helsley’s motion for discharge.<sup>2</sup> On remand, the State has until January 19, 2011, extended by the delay caused by this interlocutory appeal, within which to commence the trial against Helsley.

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currently January 16, 2013.

<sup>2</sup> Helsley’s reliance on *Caldwell v. State*, 922 N.E.2d 1286, is entirely misplaced. In that case, Caldwell was arrested for operating a vehicle while intoxicated (OWI) and released on his own recognizance two days later. Shortly thereafter, the State filed OWI charges against Caldwell. Although issued, the arrest warrant was not executed because the bond amount had been reduced to personal recognizance. Thus, unlike in the instant case, Caldwell remained within the jurisdiction of the trial court (on his own recognizance) and was not incarcerated in another county, nor was his initial arrest related to anything other than his OWI offense. Under the specific facts in *Caldwell*, we held that the time for purposes of Rule 4(C) began running from the

Judgment affirmed and cause remanded for trial.

MAY, J., and MATHIAS, J., concur.

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date the charges were filed. Contrary to Helsley's assertions on appeal, we are not presented with similar facts here.