

1 IN THE SUPREME COURT OF THE UNITED STATES

2 -----:
3 JULIUS T. CUYLER, SUPERINTENDENT, :
4 STATE CORRECTIONAL INSTITUTION, :
ET AL., :

5 Petitioners, :

6 v. :

No. 78-1841

7 JOHN ADAMS, :

8 Respondent. :
9 -----:

9 Washington, D. C.,

10 Tuesday, October 7, 1980

11 The above-entitled matter came on for oral argument
12 at 10:02 o'clock a.m.

13 BEFORE:

- 14 HON. WARREN E. BURGER, Chief Justice of the United States
- 15 HON. WILLIAM J. BRENNAN, JR., Associate Justice
- 16 HON. POTTER STEWART, Associate Justice
- 17 HON. BYRON R. WHITE, Associate Justice
- 18 HON. THURGOOD MARSHALL, Associate Justice
- 19 HON. HARRY A. BLACKMUN, Associate Justice
- 20 HON. LEWIS F. POWELL, JR., Associate Justice
- 21 HON. WILLIAM H. REHNQUIST, Associate Justice
- 22 HON. JOHN PAUL STEVENS, Associate Justice

23 APPEARANCES:

24 MS. MARIA PARISI VICKERS, ESQ., Deputy Attorney General of
25 Pennsylvania, Pennsylvania Department of Justice,
Philadelphia, Pennsylvania 19130; on behalf of
Petitioners.

JAMES D. CRAWFORD, ESQ., Schnader, Harrison, Segal & Lewis,
1719 Packard Building, Philadelphia, Pennsylvania 19102,
on behalf of the Respondent.

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C O N T E N T S

ORAL ARGUMENT OF

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P R O C E E D I N G S

MR. CHIEF JUSTICE BURGER: Ms. Vickers, you may proceed whenever you're ready.

ORAL ARGUMENT OF MS. MARIA PARISI VICKERS

ON BEHALF OF THE PETITIONERS

MS. VICKERS: Mr. Chief Justice, may it please the Court:

This case arises in the context of the Uniform Extradition Act and the Interstate Agreement on Detainers, both interstate compacts which have been adopted by the overwhelming majority of the states.

The issue before the Court involves the interrelationship of these two important compacts as they affect the interstate transfer of a prisoner who has a detainer lodged against him and who is sought for trial on criminal charges in another state.

QUESTION: Ms. Vickers, isn't there some question as to whether this is actually a compact or not?

MS. VICKERS: The detainer agreement, Your Honor?

QUESTION: Yes. In view of the language in the Multistate Tax Commission case saying that unless the agreement between the states is one which would alter the balance of power within the Union, it may not be a compact.

MS. VICKERS: Your Honor, I believe that this is a compact, rather an agreement entered into by party states.

1 QUESTION: But is any agreement entered into by party
2 states necessarily a compact? In the Multistate Tax Commission
3 case, there was certainly an agreement entered into by a number
4 of states, and I believe it was held it was not a compact.

5 MS. VICKERS: Your Honor, I must say that I have not
6 focused on that issue and I apologize.

7 QUESTION: If it isn't, I suppose it would follow
8 that there is some considerable question about whether or not
9 there is a federal question here.

10 MS. VICKERS: Your Honor, the 3rd Circuit relying on
11 this Court's decisions found that there was a question of
12 federal law and that it is a --

13 QUESTION: I know. The Court of Appeals of the 3rd
14 Circuit did so. The case is now here.

15 MS. VICKERS: And it is a compact. They found it to
16 be a compact. Your Honor, I don't believe that this Court has
17 ever passed on this specific issue as far as the Agreement is
18 concerned.

19 QUESTION: Certainly a uniform state act, even though
20 the same act has been enacted by the legislatures of 50 states,
21 is not a federal question. That's still a question of state
22 law, even though the law is identical in each of the 50 states,
23 isn't it?

24 MS. VICKERS: Your Honor, it might be a question of
25 state law. However, a federal interpretation would govern

1 because it is a compact.

2 QUESTION: Even though -- let's assume that there's
3 an identical federal law. If you apply it within a state, it's
4 still a matter of state law, isn't it?

5 MS. VICKERS: I would agree that simply because the
6 United States has adopted the agreement doesn't automatically
7 make it a federal law. However, if the agreement is one which has
8 been sanctioned by Congress -- and here I believe the sanction by
9 Congress was given prior to the enactment of this agreement --
10 then I believe that federal interpretation would be binding on
11 the states.

12 QUESTION: The Court of Appeals certainly held that.

13 MS. VICKERS: Yes, Your Honor.

14 QUESTION: So you have support for your position.

15 MS. VICKERS: I do not differ with that position,
16 Your Honor.

17 Your Honor, the factual and procedural posture of the
18 case is briefly summarized. Respondent is a inmate confined in
19 a Pennsylvania prison who was wanted for trial on criminal
20 charges in the State of New Jersey. He was being sought pur-
21 suant to the interstate agreement on detainers, and he alleges
22 that this transfer under the Agreement rather than under the
23 Uniform Extradition Act violated his constitutionally protected
24 rights in two ways. One, the failure to advise him of his
25 right to petition the Governor of the sending state to review

1 the custody request, and secondly, the absence of a pretransfer
2 hearing violated his right to due process. And secondly, the
3 fact that the state did not provide him with a pretransfer hear-
4 ing as in the case of a transfer under the Extradition Act
5 deprived him of the equal protection of the laws.

6 The district court dismissed the complaint for fail-
7 ure to state a claim upon which relief could be granted. An
8 appeal was taken to the 3rd Circuit and that court held as a
9 matter of statutory construction, never reaching the federal
10 issues, that Article IV(d) of the Agreement preserves a prison-
11 er's existing procedural rights under the Extradition Act,
12 Section 10 more specifically.

13 QUESTION: Which was exactly contrary to the inter-
14 pretation of the Pennsylvania state court, wasn't it?

15 MS. VICKERS: That's right, Your Honor.

16 Your Honor, in reaching their decision the appellate
17 court relied on the language of Article IV(d) which states that
18 the Agreement does not deprive a prisoner of any right which he
19 may have to contest the legality of his delivery, as provided
20 in paragraph (a) hereof. However, nothing in the Agreement
21 suggests that any right includes Extradition Act procedures,
22 and it is our position that the language which I have just
23 quoted refers only to the right to petition the Governor to
24 disapprove the request of the prosecutor for temporary custody.

25 Similarly, the Court of Appeals relied on the

1 commentary by the Council of State Governments to Article IV(d).
2 And here again they relied on language concerning extradition.
3 But here extradition was not defined in terms of the Extradition
4 Act. Therefore they relied on a commentary which was in
5 itself ambiguous and unenlightening. They also pointed to lan-
6 guage in Article III(e) to the effect that a prisoner who him-
7 self requests final disposition on outstanding charges waives
8 extradition. Again, Article III does not define extradition,
9 and there was no necessity for the framers of the Agreement to
10 define extradition here since extradition was being waived.
11 So reference to Article III(e) language is also unenlightening.

12 Your Honor, this Court has defined extradition in its
13 cases, and the Extradition Clause of the U. S. Constitution and
14 its implementing legislation do not define extradition in terms
15 of a pretransfer hearing. So it would seem to us that it is
16 unreasonable to assume that every time the word extradition is
17 used a pretransfer hearing is implied. Neither the Extradition
18 Clause nor the federal implementing legislation nor the defini-
19 tion of this Court of the term "extradition" would imply a pre-
20 transfer hearing.

21 Your Honor, we would submit that the Court of Appeals'
22 interpretation of Article IV(d) is not only against the clear
23 and literal reading of the statute itself but it goes against
24 the purpose of the Agreement. And Article I, the last sentence
25 of Article I, states that it is the purpose of the Agreement to

1 provide cooperative procedures. The Article had been talking
2 of the need to have cooperative procedures when there is an
3 interstate transfer of prisoners and the framers clearly said,
4 "It is the purpose of the Agreement to provide such cooperative
5 procedures." This language indicates that the framers intended
6 to provide specific mechanism for these transfers; it was an
7 affirmative statement that they were to provide certain proce-
8 dures to accomplish what was to be the expeditious and orderly
9 disposition of outstanding charges.

10 If the framers had not intended to set out a complete
11 self-contained system, a complete procedure within the four
12 corners of the Agreement, I think that they would have so speci-
13 fied. They would have set out a particular procedure and they
14 would not have stated in Article I that it is the purpose of
15 the Agreement to provide the procedures.

16 So I believe that the interpretation of the Court of
17 Appeals for the 3rd Circuit goes against the clear intent set
18 out in Article I of the Agreement.

19 QUESTION: Ms. Vickers, could you help me with one
20 question? Under your view of the Interstate Agreement on
21 Detainers, how does the prisoner know that he has a right to
22 file a motion with the Governor within that 30-day period asking
23 that he not be transferred?

24 MS. VICKERS: Your Honor, the statute itself does not
25 provide that he be advised. However, the forms which have been

1 adopted by all of the states for the promulgation of the proce-
2 dures within the Agreement advises the prisoner when a detainer
3 is lodged against him that he has several options. A detainer
4 has been lodged against him and he may under Article III proceed
5 to seek final resolution of the detainer, or under Article IV
6 -- and they give the procedures to be followed.

7 QUESTION: Was this particular respondent given that
8 form?

9 MS. VICKERS: Your Honor, the record does not show
10 either way.

11 QUESTION: Because he alleges he did not know about
12 his right to filing.

13 MS. VICKERS: Your Honor, he alleges, he discussed
14 only the time frame from when the custody request was received
15 by the state. There is no discussion as to the detainer, when
16 the detainer was first filed. And I would submit, therefore,
17 that the record is unclear as to whether he received notice of
18 the filing of the detainer or Form 1.

19 QUESTION: Whose burden would it be to show that he
20 received a piece of paper that would tell him what his rights
21 were?

22 MS. VICKERS: Your Honor, I think that the way the
23 record stands at this point it's incomplete on that issue.

24 QUESTION: But then don't we have to accept his claim
25 that he didn't know about this right as probably a valid claim?

1 MS. VICKERS: Your Honor, normally I would agree with
2 you but in this particular case I think that there is a lack of
3 information on that point. He speaks only of when the custody
4 request was lodged. He does not speak of any prior period of
5 time. He does not say specifically that he did not receive
6 notice of a detainer. The complaint doesn't say that.

7 QUESTION: Well, but even if he had notice of the
8 detainer, it wouldn't necessarily mean that he had notice of
9 his right to make a request with the Governor within that 30-day
10 period.

11 MS. VICKERS: Your Honor, as I was stating, when the
12 prisoner receives notice of the detainer, he receives it through
13 a form, Form 1.

14 QUESTION: How do we know that? Not that I don't
15 have confidence in what you're telling me. Is there anything in
16 the record that explains that procedure to us?

17 MS. VICKERS: No, Your Honor.

18 Your Honor, to continue on the issue of the interpre-
19 tation of the Article IV(d) by the 3rd Circuit, it appears that
20 the 3rd Circuit interpretation would have us assume that every
21 state which adopts the Interstate Agreement on Detainers has a
22 Uniform Extradition Act. And this is just not so. There are
23 still states which do not have that Act. Therefore, it would be
24 incongruous for a court to conclude that a prisoner has rights
25 derivative from a statute which may not exist in a particular

1 state. On the other hand, the Court of Appeals decision may be
2 construed as to mean that whatever statute on extradition exists
3 in that state should be applied.

4 Well, Your Honors, if it please the Court, I would
5 submit that that is an equally irrational result, because the
6 Uniform Agreement on Detainers is supposed to be a uniform
7 statute with uniform procedures throughout the country. This
8 is the intent of the framers, this is what is going to facili-
9 tate transfers. And to have the result that the procedures are
10 going to differ depending on the particular extradition statute
11 in each state is simply absurd. It defeats both the character
12 of the statute in its uniformity, and it defeats the purpose of
13 the Agreement itself.

14 QUESTION: Yet, in the Uniform Commercial Code, in
15 its early days, which was also adopted by a large majority of
16 the states, the highest courts of various states interpreted
17 various provisions differently. Which were generally corrected,
18 I think, by recommendations of the Uniform Conference on,
19 Commissioners of Uniform State Laws. But those were never
20 treated as federal questions.

21 MS. VICKERS: Well, Your Honor, I think that the
22 uniformity of the procedure here is strongly supported by the
23 purpose enunciated in Article I of the Agreement, which is to
24 provide the procedures to be followed.

25 QUESTION: All uniform laws are supposed to be

1 interpreted uniformly but lots of state courts just have come to
2 different conclusions on rather difficult questions of statu-
3 tory construction.

4 MS. VICKERS: Well, Your Honor, I think that the pur-
5 pose of this Agreement, the enunciation by the framers, specif-
6 ically states in Article I that cooperative procedures are
7 going to be provided. I think that that implies that they're
8 going to be the same procedures.

9 QUESTION: At some point, Ms. Vickers, before you
10 complete, do you intend to address yourself to the question of
11 mootness?

12 MS. VICKERS: Yes, Your Honor, we have --

13 QUESTION: Do it in your own time.

14 MS. VICKERS: Yes. Thank you, Your Honor.

15 Your Honor, we believe also that the reliance placed
16 by the Court of Appeals on legislative history is misplaced
17 here. However, we agree that legislative history may be con-
18 sulted by the court when the language of the statute is unclear
19 and when the legislative history would clarify the question.
20 Here that is just simply not so. In fact, the interpretation
21 given to IV(d) defeats the very purpose of the agreement,
22 which is the expeditious and orderly disposition of detainees.

23 QUESTION: But, Ms. Vickers, I'm a little puzzled on
24 how you read IV(d). What do you think IV(d) means?

25 MS. VICKERS: Your Honor, I think it means that the

1 prisoner has those rights enumerated in Paragraph (a).

2 QUESTION: Why do you have to say that? I mean, if
3 Paragraph (a) gives him those rights, do you have to put in
4 another paragraph that says, this article doesn't take away the
5 rights we just gave you?

6 MS. VICKERS: I think, Your Honor, that was -- that
7 is a clarifying reference and I think that it is not unusual in
8 statutes to find --

9 QUESTION: What are the rights that the prisoner gets
10 in Paragraph (a)? I don't find that he gets any rights in that
11 that --

12 MS. VICKERS: Well, Your Honor, he has the right to
13 petition the Governor. He has the 30-day --

14 QUESTION: That's right. That isn't spelled out here,
15 is it? There's nothing in here that says he has the right to
16 do that. It says the Governor has the right to withhold the
17 transfer if he petitions.

18 MS. VICKERS: That's right, if the prisoner petitions.

19 QUESTION: But you say, you think Paragraph (d) was
20 intended to preserve his right to petition the Governor?

21 MS. VICKERS: Both that and to give him an opportunity
22 during the 30-day period to take whatever other action he might
23 deem appropriate. For example, the petition for writ of habeas
24 corpus.

25 QUESTION: Was that right given by Article IV(a)?

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MS. VICKERS: No, it is not.

QUESTION: That's a right that, if it exists, exists independently of IV(a).

MS. VICKERS: That's right.

QUESTION: So as soon as you admit that that was intended to preserve that right, you're saying that Paragraph IV(d) is preserving things not granted by IV(a).

MS. VICKERS: Your Honor, I believe the right to petition for writ of habeas corpus is a right which cannot be abrogated by particular statute.

QUESTION: You wouldn't need to put in Subparagraph (d) in order to preserve that right is what you're saying, then.

MS. VICKERS: That's right.

QUESTION: Then I find it difficult to understand what IV(d) accomplishes if it does not preserve rights that exist independently of the Interstate Agreement on Detainers.

MS. VICKERS: Your Honor, I would agree that it preserves a right which is a fundamental right, a right which is not a matter of state law such as uniform extradition procedures would be. But it would be a right which belongs to the prisoner because of constitutional provisions.

QUESTION: Well, just to make it explicit, you then concede that Paragraph IV(d) preserves rights beyond rights which are granted in Paragraph (a)?

MS. VICKERS: Your Honor, within the framework of

1 this statute, the only right which this particular statutory
2 provision gives him is a right to petition the Governor, we be-
3 lieve. However, this statute, taken as a whole, does not obli-
4 gate the prisoner's rights that he may have to file a petition
5 for writ of habeas corpus. For any other --

6 QUESTION: Or that right that he had before this
7 agreement was adopted to have certain procedural protections in
8 connection with extradition.

9 MS. VICKERS: Well, Your Honor, I think at that point
10 we are getting into reliance on another statute and then we have
11 to look at the interrelationship between the Extradition Act
12 and the Detainer Agreement. And it is our position that the
13 Extradition Act is a general statute which addresses the subject
14 of extradition of any persons, and it focuses on the extradition
15 of prisoners in a particular section but that focuses on both
16 sentenced and unsentenced prisoners, whereas the Detainer
17 Agreement specifically --

18 QUESTION: I understand that, but would you agree that
19 before the Agreement on Detainers was adopted, the prisoner had
20 certain protections under the Extradition Act?

21 MS. VICKERS: Yes, Your Honor, he did. However, the
22 protections that he had were possibly subject to modification
23 by the executive authority under Section 5, Your Honor. The
24 executive authority of the state was free to enter into agree-
25 ments for the transfer of prisoners, and I think there there's

1 a possibility that under Section 5 -- I suggested that in my
2 brief -- the executive authority might enter into an agreement
3 which would differ from the Extradition Act procedures them-
4 selves when dealing with a prisoner.

5 QUESTION: May I ask whether the language -- any right
6 that the prisoner may have -- couldn't refer to just any right
7 under state law?

8 MS. VICKERS: Yes, Your Honor.

9 QUESTION: It's not limited.

10 MS. VICKERS: Yes, Your Honor, it may. However, when
11 you have the general statute such as the Extradition Act and
12 then the enactment of a specific statute such as the Detainer
13 Agreement which focuses specifically on sentenced prisoners
14 who have a detainer lodged against them, then I think the terms
15 of the specific statute must control.

16 QUESTION: Well, I'm not debating that point at the
17 moment; there's not a word in the Detainer Act that refers to
18 the Extradition Act, is there?

19 MS. VICKERS: I'm sorry, Your Honor?

20 QUESTION: There's nothing in the Detainer Act, no
21 specific reference, to the Extradition Act?

22 MS. VICKERS: No, Your Honor.

23 QUESTION: So my question was whether or not the
24 language that you have been discussing with Justice Stevens
25 couldn't be construed simply as applying to whatever rights may

1 exist under Pennsylvania law.

2 MS. VICKERS: Yes, Your Honor, that would be correct,
3 except for the fact that the Detainer Agreement is a specific
4 statute
statute which deals --

5 QUESTION: Well, I understand that.

6 MS. VICKERS: And once, I think, you have the enact-
7 ment of a specific statute which deals with the procedures to
8 be had when a prisoner is transferred, those are the procedures
9 which control. And I believe that the language "any right"
10 refers to the 30-day waiting period and the opportunity that
11 the prisoner has to petition the Governor.

12 QUESTION: There are really three ways to construe
13 that language. One is, it refers to Paragraph (a), the 30-day
14 right. That's your view. Secondly, it could refer to any
15 right given by state law except the Extradition Act. And,
16 thirdly, it could refer to any right given by other laws
17 including the extradition right. Those are the three alterna-
18 tives.

19 MS. VICKERS: Your Honor --

20 QUESTION: Your view, as I understand your brief, is
21 it refers just to
it refers just to Paragraph (a). Justice Powell has just sug-
22 gested, well, maybe it refers to any right given by state law
23 except the Extradition Act. And your opponent argues the third
24 alternative.

25 MS. VICKERS: Your Honor, I believe that the

1 interrelationship of the two Acts -- and I apologize for repeat-
2 ing myself, but I do think that that, in my mind, that is the
3 issue, the interrelationship of these two Acts, the purpose
4 of the Extradition Act, the purpose of the Agreement on Detain-
5 ers. There's a general statute which gives particular rights
6 to a class, and then there's a more specific statute which re-
7 fines the class and mandates a certain procedure for that class.

8 QUESTION: Then your view is that this language is so
9 perfectly clear that we should not look at the legislative his-
10 tory that says it's not intended to waive the rights under the
11 extradition statute? Which the legislative history does say
12 rather clearly.

13 MS. VICKERS: Well, Your Honor, the commentary does
14 not say, under the extradition statute.

15 QUESTION: Well, the extradition process, which are
16 designed for the protection of prisoners.

17 MS. VICKERS: Right, Your Honor. I don't believe
18 that the extradition process clearly includes a pretransfer
19 hearing. The extradition clause in the federal implementing
20 legislation certainly doesn't require a pretransfer hearing.
21 And there may be valid state laws which would not require a pre-
22 transfer hearing. So I don't think that it's logical to assume
23 that extradition process means a hearing. That is our position.

24 Your Honor, if it please the Court, the consequences
25 of the decision of the 3rd Circuit have some very, what we

1 believe to be some unreasonable effects and consequences. First
2 of all, the decision provides greater procedural protections to
3 a prisoner who is wanted for trial in another state than to the
4 man on the street who is arrested on a Governor's warrant and
5 is transferred to another state. Because now you have in ef-
6 fect the procedures of both the Detainer Agreement and the
7 Extradition Act which accrue to a prisoner, whereas the man in
8 the street is simply protected by the Extradition Act. I would
9 submit that if there's a class of people, of the two, that
10 needs greater protection because of the basic interest involved,
11 I would say that the man on the street has a great deal more to
12 lose by what could be a permanent transfer to another jurisdic-
13 tion than a prisoner who is being transferred for a 120-day
14 period.

15 The prisoner's transfer under the Detainer Act is
16 temporary. The prisoner receives substantial benefits under
17 that Act. He may -- any charges outstanding in a receiving
18 jurisdiction which are not acted upon in the 120-day period
19 will be dismissed. This is a great bonus to an inmate.

20 Also, while he's serving the time in the demanding
21 jurisdiction, his sentence which he was serving in the asylum
22 state continues to be served. He is not losing anything.
23 There might be interruption in his programs, perhaps he loses
24 his job, he's away from his family, but these are minor con-
25 siderations when compared to the loss suffered, the liberty

1 loss suffered by the man on the street when he's arrested and
2 transferred. So it is an absurd result which the 3rd Circuit
3 decision requires, and respondent has argued in his brief that
4 because of the evils of the detainers lodged against an inmate
5 the prisoner requires greater procedural protections. Well, I
6 would submit that that is on its face a meritless conclusion.

7 And secondly, here it's not the detainer which is
8 being attacked but the transfer itself.

9 Furthermore, there's the matter of the 30-day waiting
10 period. This defeats one of the primary purposes of the
11 Agreement and that is to expeditiously try the underlying spe-
12 cific detainer. This 30-day period must elapse before any
13 procedure in court is begun, because during that 30-day period
14 the Governor of the state may sua sponte disapprove the
15 request. So therefore we must wait -- now, in Pennsylvania,
16 this is the procedure we're using -- we must wait for the 30-day
17 period to elapse, then take the prisoner before a court of
18 record and at that point he can require a habeas corpus hearing.
19 So that there's a great deal of delay which has been built in
20 to the Agreement.

21 QUESTION: Are you coming to the mootness point at
22 some -- ?

23 MS. VICKERS: Yes, Your Honor, I will address that now.
24 This case was filed as a class action. The class was never cer-
25 tified, however. The prisoner was transferred to New Jersey.

1 He was tried, convicted, and returned to Pennsylvania. There-
2 fore I believe the injunctive relief sought is mooted, but
3 there's a damage claim and I believe for that reason the case is
4 still a live case and properly before this Court.

5 QUESTION: Could he recover any more than nominal
6 damages, assuming any recovery?

7 MS. VICKERS: No, Your Honor, I think that's -- one
8 dollar under your decisions is what he could recover, but that
9 still keeps the case live, and therefore you must pass upon it.

10 QUESTION: Perhaps your friend will have something to
11 say about the mootness question too.

12 MS. VICKERS: Your Honor, I would conclude by saying
13 that the Agreement was fashioned to achieve several purposes.
14 There are several converging interests here. There's the
15 interest of the demanding state in trying prisoners who have
16 outstanding criminal charges against them. There's the inter-
17 est of the asylum state in seeing that the rehabilitation of
18 the prisoner is not interrupted by multiple trips to varying
19 jurisdictions. And finally, there's the interest of the pris-
20 oner himself in his rehabilitation and therefore all three
21 interests must be taken into consideration.

22 This statute is not a statute for the benefit of the
23 prisoner, as alleged by Respondent. It is a statute which con-
24 sideres the sovereign powers of the states, both the demanding
25 and the asylum state, and their relationship to the prisoner.

1 QUESTION: Now, which statute? Which statute are
2 you talking about? There are two.

3 MS. VICKERS: The Agreement --

4 QUESTION: There's the Extradition Act, which is a
5 state law, and then there's a Uniform -- there's an Agreement
6 on --

7 MS. VICKERS: -- Detainers. Your Honor, the Agreement
8 I'm talking about. I'm referring to the Agreement.

9 QUESTION: The court held, the Court of Appeals for
10 the 3rd Circuit held that the state laws, the protections ex-
11 tended by the state law, were extended in this case even though
12 it was also governed by the Interstate Agreement on Detainers.
13 Isn't that correct?

14 MS. VICKERS: Yes, Your Honor. That was the holding.

15 QUESTION: Well, I'm left with the question that
16 Brother Rehnquist asked you. What's the question of federal
17 law?

18 MS. VICKERS: Your Honor, the interpretation. I be-
19 lieve that even though it is a matter of individual state law,
20 the Agreement itself is a matter of state law because it has
21 been enacted in a particular state.

22 QUESTION: All right, but all that the Court of
23 Appeals held was that the law of Pennsylvania extended certain
24 rights --

25 MS. VICKERS: That's right.

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QUESTION: -- to the respondent.

MS. VICKERS: Yes, Your Honor.

QUESTION: And that holding was exactly contrary to the Commonwealth court's holding?

MS. VICKERS: That's right, Your Honor.

Your Honor, if it please the Court, I would like to reserve remaining time for rebuttal. Thank you.

MR. CHIEF JUSTICE BURGER: Very well. Mr. Crawford.

ORAL ARGUMENT OF JAMES D. CRAWFORD

ON BEHALF OF THE RESPONDENT

MR. CRAWFORD: Mr. Chief Justice, and may it please the Court:

I'd like to begin by addressing myself to the question posed by Mr. Justice Rehnquist and echoed by Mr. Justice Stewart concerning whether this is a federal question case at all.

It was very clear to the people who adopted the interstate compact on detainers that they were adopting -- or the Interstate Agreement on Detainers; I have tried to put my rabbit in my hat too far but -- they enacted the Interstate Agreement on Detainers but they did so very clearly under the provisions of the Crime Control Consent Act of 1934. All of the material that went out about it said, this is the basis on which this interstate compact is permitted. So that, to the degree that the people who adopted it could control whether this

1 was an interstate compact, they plainly meant it to be one.

2 QUESTION: Yes, but the Court of Appeals for the 3rd
3 Circuit decided this case on the ground of what was extended to
4 your client by the state law.

5 MR. CRAWFORD: Yes, Mr. Justice Stewart, because --

6 QUESTION: Not by the Agreement or the compact but
7 by the state law.

8 MR. CRAWFORD: That is correct. The compact, as a
9 federal law may do, the compact recognizes certain rights pro-
10 vided by state law.

11 QUESTION: Which may vary from state to state.

12 MR. CRAWFORD: Which may vary from state to state, but
13 an interstate --

14 QUESTION: And the Court of Appeals simply held on
15 this that in the State of Pennsylvania state law accorded your
16 client certain protections and rights, and that's the end of it,
17 and isn't that a state law decision?

18 MR. CRAWFORD: No, Mr. Justice Stewart.

19 QUESTION: Well, why isn't it?

20 MR. CRAWFORD: Because state law accords everyone
21 under the extradition process certain rights.

22 QUESTION: Yes, but Mr. Crawford, this is a 1983 suit,
23 is that right?

24 MR. CRAWFORD: That is correct, Mr. Justice Brennan.

25 QUESTION: And therefore you had to allege causes of

1 action either for violation of the Federal Constitution --

2 MR. CRAWFORD: Right.

3 QUESTION: -- or for violation of federal laws. Now
4 I read your complaint and you do allege the violations of the
5 Federal Constitution, but where do you allege violations of
6 federal law?

7 MR. CRAWFORD: Mr. Justice Brennan, this case is a
8 prisoner complaint. The prisoner did not allege any federal law
9 violations because he had not thought of the question which
10 obviously was later posed, I think properly, by the Court of
11 Appeals. He raised serious constitutional questions which the
12 Court of Appeals did not reach and which this Court therefore
13 should not reach, because the Court of Appeals under *Hagan v.*
14 *Lavine* said, if there is a federal statute which can be inter-
15 preted --

16 QUESTION: That's it. If there was a federal statute.
17 That's my problem. Where is it?

18 MR. CRAWFORD: The federal statute, as I see it,
19 Mr. Justice Brennan, is the Interstate Agreement on Detainers.

20 QUESTION: What precisely did the Congress, besides
21 adopting this as a matter of controlling federal detainers and
22 such, what process does the Compact Clause require before an
23 interstate agreement becomes a federal compact?

24 MR. CRAWFORD: I think an interstate agreement becomes
25 a federal compact if it is adopted under the authority of

1 a congressional resolution permitting an interstate compact.
2 And in this case the fact that it is a federal law question,
3 the Court of Appeals for the 3rd Circuit fudged a little on
4 this. They said, we don't know whether every interstate compact
5 presents a federal question but this interstate compact plainly
6 has been adopted in haec verba by the --

7 QUESTION: Mr. Crawford, what was the 1934 statute
8 that you said authorized specifically the adoption system?

9 MR. CRAWFORD: The 1934 statute was a general statute
10 ute --

11 QUESTION: Is that cited?

12 QUESTION: 4 U.S.C. 112, is it not?

13 MR. CRAWFORD: That's correct, Mr. Justice Rehnquist.

14 QUESTION: And doesn't it say that the consent of
15 Congress is hereby given to any two or more states to enter
16 into agreements or compacts for cooperative effort and mutual
17 assistance in the prevention of crime?

18 MR. CRAWFORD: It goes, I think, a little broader
19 than that, Mr. Justice Rehnquist, as I remember it. Or perhaps
20 it's only been interpreted somewhat more broadly. But that
21 includes the punishment of crime or the other pieces of the
22 crime control mechanisms, and plainly this has to do with the
23 ability to prosecute crime and as such falls within the crime
24 control authorization. I had hoped to find, by the way --

25 QUESTION: And the states in adopting the detainers

1 Agreement referred to it as an agreement. They entered into an
2 agreement as well, and that's the way legislatures join agree-
3 ments, make agreements.

4 MR. CRAWFORD: That is correct, Mr. Justice White.

5 QUESTION: Quite different from the extradition,
6 Uniform Extradition Act.

7 MR. CRAWFORD: That is correct. The Uniform Extradi-
8 tion Act is plainly state law. It's a uniform act although it
9 may be hopefully interpreted the same way in varying states,
10 that's a state law question.

11 QUESTION: Of course, if it's the case that an inter-
12 state compact -- the interpretation of an interstate compact,
13 something that's admittedly a compact is a matter of state law;
14 that's something else again, but you think you have the best
15 of it on that.

16 MR. CRAWFORD: Mr. Justice White, certainly the states
17 when they adopted it believed they were entering into an inter-
18 state compact.

19 QUESTION: Oh, yes. But what is the authority for
20 an admitted interstate compact being a federal question?

21 MR. CRAWFORD: I think Petty vs. Tennessee-Missouri
22 Bridge would be the leading case on the point and it seems to
23 me very clear. Common sense tells you that this Court was cor-
24 rect in that case -- whatever you may do in an area where you
25 have no control. The uniform act would be wonderful if you could

1 bring uniform acts to some court somewhere and get uniform in-
2 terpretations. There's no constitutional basis for it.

3 Where -- and the Court found in Petty, for example --
4 that an interstate compact being authorized specifically by the
5 Constitution and by Act of Congress presents a federal question,
6 then the great wisdom that permits such a compact to be inter-
7 preted by this Court, or initially by the lower federal courts,
8 brings a uniformity which is not only desirable, as in the
9 uniform acts, but also achievable, because there's a constitu-
10 tional framework.

11 QUESTION: But 112 provides for the execution of
12 agreements or compacts, does it not?

13 MR. CRAWFORD: I'm sorry, Justice Rehnquist, I don't
14 remember that but --

15 QUESTION: It's to be found in footnote 1 of the Court
16 of Appeals' opinion, on page 3a of the Petition for Certiorari.
17 "Consent of Congress is hereby given to any two or more states
18 to enter into agreements or compacts for cooperative effort and
19 mutual assistance in the prevention of crime and in the enforce-
20 ment of their respective criminal laws and policies, and to
21 establish such agencies, joint or otherwise, as they may deem
22 desirable for making effective such agreements and compacts."
23 That's the extent of the statute.

24 MR. CRAWFORD: Well, plainly, Justice Stewart, if
25 consent of Congress is needed for these agreements or compacts,

1 then they're both compacts for the purpose of the Compact Clause.
2 If these are agreements of some other sort, congressional con-
3 sent wasn't needed, so the fact that Congress used the word
4 "agreement" and that the framers of this compact used the word
5 "agreement" I think is immaterial to the interpretation in this
6 case.

7 QUESTION: Well, what do you do with the Multistate
8 Tax Commission then? The case that this Court handed down two
9 or three years ago, where the thing had been submitted to
10 Congress and Congress had refused to approve it?

11 MR. CRAWFORD: Mr. Justice Rehnquist, it seems to me
12 a very different situation when you say, you didn't need a com-
13 pact in order to reach this agreement. It's a very different
14 situation from the case in which the states choose to follow
15 Congress and the states choose to follow the Compact Clause.
16 I don't see Multistate Tax Commission as saying, you can't make
17 a compact about anything but this very narrow area. I under-
18 stand the case to say it is unnecessary to get congressional
19 approval outside the narrow area.

20 QUESTION: Well, but could Congress by writing a
21 broad, blanket, general approval of all sorts of agreements
22 between the states make all such agreements federal questions?

23 MR. CRAWFORD: I don't know the answer to that,
24 Mr. Justice Rehnquist. I think they did in this case. It may
25 be that there's some limit as to how broadly they can go.

1 But I think this is the sort of concern which is at worst on the
2 edge of the area where compacts are needed and certainly not one
3 where, if the Congress authorized it and the states accept that
4 authorization, this Court should now say, you thought you had a
5 compact and an agreement under the Compact Clause, but you
6 didn't. I don't see that that's appropriate in this case.

7 QUESTION: Mr. Crawford, let me put it to you this
8 way. Supposing after the 3rd Circuit decision in this case the
9 Governor of Pennsylvania and the Governor of New Jersey got
10 together and said, we really intended the result that the
11 Pennsylvania Supreme Court holding would allow; we don't want to
12 have extradition procedures apply in detainer areas, therefore
13 let's adopt an amendment to the agreement between these two
14 states which specifically says, no extradition-type hearings in
15 the detainer area. Would there need to be the approval of
16 Congress for such an agreement? And if, on the second question,
17 would that agreement be subject to construction by us?

18 MR. CRAWFORD: To back in, Justice Stevens, first off,
19 obviously that agreement would not be subject to construction
20 by you unless it were a compact.

21 QUESTION: Right.

22 MR. CRAWFORD: I believe this is an area --

23 QUESTION: Suppose that agreement is authorized by
24 just broad, general language in Section 112: "Any agreements
25 relating to the enforcement of criminal law"?

1 MR. CRAWFORD: Then it is a compact and then it is
2 subject to interpretation by this Court. But the interpretation
3 would approve that agreement, because the whole focus of this
4 case and the whole misguided argument against the decision of
5 the Court of Appeals, as I see it, is this Interstate Agreement
6 on Detainers did not create the rights about which we are
7 talking. It federalized those rights in the sense that when
8 the Interstate Agreement was written, they said, we choose to
9 preserve all those rights which existed; we don't want to meddle
10 with these rights and we thereby federalize them. IF

11 If Pennsylvania chose to repeal the Uniform Extradition
12 Act, which it has a perfect right to do, and to go down to
13 what two states -- there are still two left that have no uniform
14 act on this -- have and have simply the right to use governors'
15 warrants, no habeas corpus, no hearings, then there will be a
16 question of whether there is some kind of inherent law to pro-
17 tect a person being extradited -- the cases as I read them say
18 there is very little if any -- and you would remove these
19 rights. But you remove these rights by changing state law.

20 And I would point out last, the Supreme Court of
21 Pennsylvania has never decided this case. The Superior Court
22 of Pennsylvania merely decided that the interstate compact as
23 they had interpreted it -- an interpretation was never argued
24 to them -- wasn't unconstitutional. That's all that's been
25 decided.

1 QUESTION: Would it be within the authority of the
2 two governors to say that with respect to the questions of
3 interpreting the agreement for prisoners who are in custody in
4 Pennsylvania, decisions of the Pennsylvania courts shall control
5 whereas with respect to prisoners in custody in New Jersey,
6 the decisions of the New Jersey state courts shall control,
7 and in no event shall the federal courts depart from those in-
8 structions?

9 MR. CRAWFORD: I hesitate to think about what people
10 can do to rip jurisdictions from federal courts. I have watched
11 so many tough questions in the area. I don't think that works,
12 Mr. Justice Stevens, but I probably should have to think it out
13 more. It seems to me that the analogous situation in which
14 for example the legislatures of the two states modified the
15 Extradition Act to remove these rights only from people who are
16 serving terms in prison would be subject to a substantial con-
17 stitutional argument on equal protection grounds. I think the
18 prisoners would win it. I don't know. But in any case there'd
19 be a substantial constitutional question, whether there isn't
20 a similar substantial constitutional question when the governors
21 get together and say, we're going to let our highest state
22 courts provide the "rippers" instead of our Legislature.
23 I don't know the answer to that; we'd have to find out what
24 the state courts did, but they haven't done that here. At pre-
25 sent we have the uniform agreement in exactly the terms in

1 which it was entered.

2 I wonder if I could spend a minute on the statutory
3 construction, although I think that some questions from
4 Mr. Justice Powell and Mr. Justice Stevens pretty much construed
5 it as I see it.

6 QUESTION: Save a minute or two for mootness also.

7 MR. CRAWFORD: I will do so, Mr. Chief Justice.

8 This is a statute which -- I was going to open my
9 argument -- a few things that everyone agrees here, and one is,
10 this is a statute for the protection of prisoners. All of the
11 legislative history and material says so. The reason states
12 get a chance to move cases faster is because, said the framers,
13 the Council on State Government, this is for the benefit of
14 prisoners. They are better off if their cases are disposed of
15 promptly. I can no longer say we all agree it's for the bene-
16 fit of prisoners, but I suggest that if you look at all the
17 legislative history -- and this legislative history is different
18 from some places because this uniform agreement was circulated
19 with an attached piece of history right with it -- everybody who
20 adopted it knew what they were getting.

21 This is an Act for the protection of prisoners and
22 it's being interpreted by the State here to have taken substan-
23 tial rights away from prisoners. And I suggest, if that's what
24 the Act was going to do, it would have done so very explicitly.
25 There is no language which says there are any rights which

1 prisoners previously had under state law that are being taken
2 away from them. Instead, there is Section IV(d) which says,
3 any rights you have are preserved.

4 Secondly, the construction of the detainer agreement
5 within itself plainly supports this. You have the contrast
6 with Article III, the prisoner-initiated transfer, in which the
7 prisoner waives extradition -- precisely the term, by the way,
8 that's used in the Extradition Act. Section 26 of the Uniform
9 Act says, if you don't want to go through all these procedures,
10 you waive extradition, you don't waive Extradition Act.
11 And the Extradition Act was the law of the vast majority of the
12 states when the compact or the Agreement was drawn up.

13 So they're obviously thinking in precisely those
14 terms. They say, if you want to go to another state, you can't
15 also ask for a bunch of rights which you may have. Whatever
16 you've got, you give up. But by clear contrast, if a prosecu-
17 tor somewhere else wants to take you across the state lines,
18 you keep any rights you had.

19 The framers sent out just a couple of pages of legis-
20 lative history to go with it, and one of the things they said
21 is, we have some questions whether we constitutionally can take
22 away those rights or whether it's proper to take away those
23 rights, but in any case we have clearly not done so; we've pre-
24 served whatever rights existed -- not Extradition Act rights;
25 some states didn't have an Extradition Act; then there were no

1 Extradition Act rights to preserve; but we've preserved what-
2 ever is there.

3 Finally, interpreting the Extradition Act this way has
4 the great benefit of avoiding some tough constitutional ques-
5 tions. I'm assuming -- and I do assume this -- that this is an
6 interstate compact and that it's subject to interpretation by
7 this Court; then this Court has ample -- the worst that could
8 be said about the position that I'm taking is that perhaps the
9 Act has an ambiguity. I don't think there are any ambiguities.

10 QUESTION: But who brought -- do state court
11 interpretations? What weight should we give that? What con-
12 sideration should we give?

13 MR. CRAWFORD: You give, Mr. Justice Brennan, you give
14 them weight when deserved on straight federal constitutional
15 questions. There have been some notable decisions from state
16 courts --

17 QUESTION: No, but on statutory interpretations?

18 MR. CRAWFORD: There have been state courts which have
19 interpreted federal statutes. They have a right to under the
20 whole federal system, and this Court reads them, and if they're
21 well reasoned, it follows them. But there is no more rea-
22 son to follow a state court decision in this case than there
23 would be to follow it in an interpretation of the Social Security
24 Security Act.

25 QUESTION: Well, the 3rd Circuit didn't avoid any

1 constitutional question here. It decided a constitutional ques-
2 tion.

3 MR. CRAWFORD: I think it didn't even realize,
4 Mr. Justice Rehnquist, that there was any question but that
5 this was an agreement under the Compact Clause, and therefore
6 it was free to interpret it. And then there's no constitutional
7 question.

8 QUESTION: Well, but the reason that it's free to
9 interpret it is because it's an agreement under the Interstate
10 Commerce Compact Clause, according to you, and that gives rise
11 under the Petty case to a body of constitutional law.

12 MR. CRAWFORD: But I would have said federal common
13 law, once you get to it. Once you've gotten there under the
14 interstate compact, then you probably use federal common law,
15 and in this case common sense in statutory construction.

16 No question, there's a basic constitutional question, do you
17 get here under the Compact Clause?

18 I am assuming that we're here, and obviously if we're
19 not, then the case may have to go back to the 3rd Circuit, they
20 may have to decide the constitutional questions they thought
21 were avoided.

22 I do want to make a couple of points more. I think
23 that the Court should be aware, as it probably is, because its
24 Extradition Act cases recognized precisely the breadth of -- or,
25 its extradition cases which have interpreted the Extradition Act

1 recognized the very narrow rights which that Act gives. You
2 have four rights; they are all fairly pro forma rights, but on
3 occasion extremely important rights. You have a right to find
4 out that the documents are in order, that you've been charged
5 with a crime in the demanding state, that you're the person
6 named in the papers, and that you're a fugitive -- or on occa-
7 sion, because you may have, under another section of the Act,
8 committed the crime from outside the state, whether you come
9 within the Act. Very narrow rights, but they are rights you
10 have to be heard.

11 I suggest that for that reason there is no need to
12 have delay. I think that Ms. Vickers is quite right, this
13 agreement contemplates prompt transfer and that delay would go
14 against the interpretation of the Agreement, although if the
15 Agreement plainly calls for certain delays, and the 30-day
16 delay, for instance, is in there -- this question plagued the
17 Court somewhat in the Mauro case where, unfortunately,
18 Mr. Justice White doesn't say whether this is an interstate
19 compact or not --

20 QUESTION: Well, that was a federal statute.

21 MR. CRAWFORD: It was a federal statute in that case;
22 that's correct.

23 QUESTION: Not quite the problem in that case.

24 MR. CRAWFORD: I had hoped for better --

25 QUESTION: But they obtained the prisoners from a

1 state.

2 MR. CRAWFORD: They obtained it from a state but
3 it was --

4 QUESTION: -- under a federal statute.

5 MR. CRAWFORD: -- under a federal statute; that's
6 correct.

7 QUESTION: And the question was whether what the
8 Government filed with the state authority --

9 MR. CRAWFORD: -- was a detainer.

10 QUESTION: Exactly.

11 MR. CRAWFORD: In any case, the delays -- as this
12 Court recognized in Michigan v. Doran and other cases, as the
13 Extradition Act shows -- are very limited delays. There is no
14 reason in the world why the Commonwealth of Pennsylvania or
15 anybody else has to wait the 30 days while you're waiting for
16 the Governor not to disapprove. Because, remember, there is
17 no need for the Governor to send any paper that says, you may
18 now transfer this prisoner, as there is in the Extradition Act.

19 In this case, or in fact, under extradition practice
20 in general -- in this case the Governor has 30 days in which he
21 may, if there is a public policy reason to do so, say the
22 framers -- he may decide to disapprove. There are always those
23 rare cases where you don't want to send your state's prisoners
24 to another state which you think will stomp on his rights, how-
25 ever evil we may think him and however much we may want him in

1 prison, we don't like what some other state's doing. The
2 Governor has 30 days in which to say, not this one. That's all
3 he can do. There's no reason why those 30 days shouldn't be
4 used to have this very limited hearing of the same sort that a
5 person is guaranteed under the Extradition Act. So there's no
6 delay involved. There are very limited rights involved, and
7 it's no question of whether this Court is going to be giving
8 rights to prisoners even that they didn't have before, because
9 a state which doesn't have these rights for its citizens
10 generally doesn't give them to prisoners through this case.

11 So that it's a very narrow case of very clear inter-
12 pretation, and it's a case that isn't moot. I would like to
13 end on that point. It's not moot for two reasons.

14 First, we don't know how much Mr. Adams may be
15 entitled to in the way of damages. He began with allegations
16 which have never been dealt with because this isn't a 12(b)
17 dismissal, this is simply an answer to the complaint which
18 denied some allegations and then said, and the case should be
19 dismissed for failure to state a federal claim.

20 He alleges that he had an alibi witness, his mother,
21 who would have spoken up for him, and that the New Jersey
22 authorities carefully waited until her death and as soon as she
23 died they filed these papers. It's conceivable that he pleaded
24 guilty in New Jersey, maintaining his innocence to the end but
25 saying, my only witnesses who could have defended me are dead.

1 There are a lot of things that are conceivably proven in this
2 case. I don't assume large damages, but we don't know that the
3 damages may be nominal; under Carey vs. Piphus, whether they may
4 be of modest substance; whether he may have suffered the
5 destruction of a program which would have enabled him to get a
6 prison job on which he could have made a little bit of money;
7 you don't know what kinds of damages might be involved. He
8 also has --

9 QUESTION: That really doesn't make any difference
10 to the question of mootness.

11 MR. CRAWFORD: If he has damages?

12 QUESTION: Even if nominal.

13 MR. CRAWFORD: That's correct. In addition --

14 QUESTION: That's not moot, is it?

15 MR. CRAWFORD: I trust that under this generally
16 framed complaint written by a prisoner, that the Court will
17 consider it as a request for declaratory judgment. Assuming it
18 it's not moot for his damage claim, this is a proper time for a
19 court to declare, this statute means this. And that would be
20 the other grounds on which it is not moot. I see no mootness
21 here.

22 Unless there are any questions from the Court, I think
23 I have covered the points which I feel need to be made.

24 QUESTION: I have two questions. First, there are
25 40-some-odd states that have adopted the Agreement. Are the

1 terms of the Agreement precisely the same for everybody who
2 signs up?

3 MR. CRAWFORD: Unlike the Uniform Act, the Agreement
4 has been adopted in exactly the same words by, I believe, 47
5 states. We counted wrong in the brief. Mississippi has
6 adopted neither of these Acts and we missed it when we counted,
7 as I think the Court below did. But 47 states and a number of
8 federal jurisdictions, Puerto Rico and the like, have adopted
9 it in exact words.

10 QUESTION: But there are no --

11 MR. CRAWFORD: Exact words.

12 QUESTION: -- separate amendments such as I discussed
13 with you before?

14 MR. CRAWFORD: None.

15 QUESTION: And secondly, I take it it's your view
16 that if we don't construe the statute we also do not reach any
17 constitutional question that's been argued in the briefs?

18 MR. CRAWFORD: I've argued them in the brief -- and at
19 that time I had argued them in the court below; they are plainly
20 posed in the case, they plainly had to be argued here to show
21 that there are substantial constitutional reasons for this
22 interpretation -- but it seems to me, Mr. Justice Stevens, that
23 since the 3rd Circuit has never spoken on those questions, if
24 you have to reach the constitutional questions, they're the
25 people who have to do it.

1 QUESTION: So then the disposition, if we disagree
2 with you on whether or not there's a federal question, your
3 proposed disposition would be to remand for consideration of
4 those constitutional questions?

5 MR. CRAWFORD: That is correct.

6 QUESTION: Those other constitutional questions.

7 MR. CRAWFORD: Those other constitutional questions.
8 That's right, Mr. Justice Rehnquist.

9 Thank you very much.

10 MR. CHIEF JUSTICE BURGER: You have one minute
11 remaining, Ms. Vickers.

12 MS. VICKERS: Thank you.

13 MR. CHIEF JUSTICE BURGER: Do you have anything
14 further?

15 MS. VICKERS: Thank you, Mr. Chief Justice.

16 ORAL ARGUMENT OF MS. MARIA PARISI VICKERS

17 ON BEHALF OF THE PETITIONERS -- REBUTTAL

18 MS. VICKERS: I would just like to point out that the
19 30-day delay which Mr. Crawford seems to feel is not a real
20 delay is a very substantial one, because in the event that we
21 do take a prisoner before a court of record and there is a dis-
22 approval for the request for custody by the Governor, you have
23 dissipation of court time. You have -- this is repeated across
24 the land, and I think that's a very real consideration. The
25 30-day delay is a real one. We have to wait until the 31st day

1 before we can petition the courts for a hearing and then possi-
2 bly a second hearing on a writ of habeas corpus. So that I
3 think that is a very substantial handicap and a very debili-
4 tating consequence of this interpretation. Thank you.

5 MR. CHIEF JUSTICE BURGER: Thank you, counsel. The
6 case is submitted.

7 (Whereupon, at 10:57 o'clock a.m., the case in the
8 above-entitled matter was submitted.)

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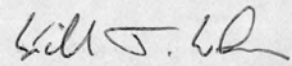
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10 v

11 John Adams

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