



# Iowa General Assembly

## 2010 Legal Updates

Legislative Services Agency – Legal Services Division

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**Purpose.** *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

### TIME PERIOD TO BRING A SEXUALLY VIOLENT PREDATOR TO TRIAL

In Re The Detention of Alan C. Fowler

Filed by the Iowa Supreme Court

July 2, 2010

No. 08-0393

[http://www.iowacourts.gov/Supreme\\_Court/Recent\\_Opinions/20100702/08-0393.pdf](http://www.iowacourts.gov/Supreme_Court/Recent_Opinions/20100702/08-0393.pdf)

**Background Facts and Procedure.** The State filed a petition against the defendant alleging that the defendant is a sexually violent predator (SVP) as defined in Code Chapter 229A. A probable cause hearing was held on October 11, 2007, and the court concluded that the defendant's previous offenses were sexually motivated and subsequently determined that probable cause existed to believe the defendant was an SVP. The court set the trial for February 11, 2008, to determine if the defendant was indeed an SVP. The defendant filed a motion to dismiss on January 10, 2008, claiming the State failed to bring the defendant to trial within 90 days of the probable cause hearing as required by Code §229A.7(3). The district court determined the 90-day time limit for holding the trial following the probable cause hearing was directory rather than mandatory, and found that the court's scheduling error, the defendant's failure to request a speedy trial, and the relatively short period of time in which the scheduled trial date exceeded the 90-day limit constituted "good cause" for exceeding the limit under Code §229A.7(3). The defendant's trial was held on February 11, 2008, and the jury concluded that the defendant was an SVP and ordered that the defendant be committed to the custody of the Director of the Department of Human Services for treatment.

**Issue.** Whether the defendant's case should have been dismissed based upon the State's failure to prosecute the SVP civil commitment action within 90 days of the probable cause hearing.

**Analysis.** The defendant contends the plain language of Code §229A.7(3) requires the court to conduct the trial to civilly commit an SVP within 90 days of the probable cause hearing. The Iowa Supreme Court (Court) stated that, generally, when the Court interprets a statute the intent is gleaned from the plain language of the statute. Furthermore, the Court opined, it will attempt to give effect to the General Assembly's intent in enacting such a law. The Court determined that the legislative intent can be found in the statute itself, including in the legislative findings in Iowa Code §229A.1. In its ruling the Court concluded that the General Assembly recognized that long-term confinement for treatment of SVPs constitutes a potential deprivation of a liberty interest, and thus included many procedural protections in SVP civil commitment proceedings that are similar to those accorded criminal offenders, who likewise face a deprivation of liberty interest. The Court concluded that the 90-day time limit is one of these procedural protections also given to criminal offenders and is a mandatory requirement. The Court also concluded there is no requirement the defendant request a "speedy trial" in order for the 90-day time period to be applicable and exceeding the 90-day requirement by a relatively short period of time does not constitute "good cause." The Court, in its discussion of the history of Iowa's SVP law, noted that the state of Kansas, which has a very similar SVP Act to this state's SVP Act, amended its law to specifically state that none of the time limits imposed in the SVP Act were intended to be mandatory.

**Holding.** The Court concluded that the General Assembly has mandated that an alleged SVP be brought to trial within 90 days of the probable cause hearing unless good cause is shown and that a violation of the mandatory requirement will invalidate subsequent actions. In this case, the State failed to bring the defendant to trial within such time period and no good cause was shown. Subsequently, the Court reversed the district court's decision and remanded the case for dismissal and for the release of the defendant.

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