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**01-973**

MR. BROWN --.

WELL WE CAN'T NOUB GO INTO A WHOLE ISSUE THAT YOU DIDN'T ADDRESS DURING THE COURSE OF YOUR ARGUMENT , COURSE H E WOULDN'T HAVE BEEN INCARCERATED .

RIGHT. PETITION , ARGUING THAT DISMISSAL WAS REQUIRED BECAUSE THERE HAD NOT BEEN A TRIAL ALL , IT'S A MATTER OF THERE HAS TO BE A REMEDY POSSIBLE.

IF HE DOESN'T ATTEND HE WOULD BE IN CON TEMPLE OF COURT?

HE COULD BE IN STATE COULD NOT APPEAL THIS ORDER , CORRECT?

CORRECT.

AND THAT APPARENTLY IS THE THE , SO THE -- WHAT THIS COURT SAID IN CREIG HAVE CITED MY BRIEF IS MULTIPLE EXAMPLES OF CASES WHERE IN S THOSE ARE GENERALLY TREATED AS CIVIL MATTERS? THAT IS OF DISMISS. WASN'T THERE A MOTION TO DISMISS GRANTED IN THIS CASE?

YES THERE WAS YOUR HONOR.

AND IF WE ACCEP APPEAL.

WOULD YOU RETURN TO YOUR OTHER ISSUES BECAUSE WE HAVE THIS LIMITED AMOUNT OF TIME. THE RECORD IS NOT CLEAR.

MOTION TO DISMISS WAS FILED?

NO. WHEN THE MOTION TO DISMISS WAS FILED , HE WAS IN TH CALIFORNIA WHERE THEY ALSO HAVE A STATUTORILY MANDATED TRIAL PREJUDICE , WHICH WOULD MEAN THE RIGHT TO REFILE A COMMITMENT PETITION. OR THEREAFTER IN THIS , I BELIEVEIT IS 394.1935 SAY THAT THE DEFENDANT WHO IS NOT IN DEPARTMENT OF CORRECTIONS CUSTODY AND IS NO LONGER IN DON'T AGREE THERE IS NO CONSEQUENCE FOR A FEW REASONS. THE F BE A POSSIBILITY WHICH COULD DEFEAT THE STATE'S ABILITY TO PROCEED. BUT THAT IS NOT GOING TO WE KNOW WHERE HE IS? IN OTHER WORDS , WE HAVE GOT -- YOU HAVE GOT DONE?

MAYBE KANSAS HAS DONE THAT.

KANSAS HAS IN FACT HAS USED THAT LANGUAGE , HAVE

HERE WE DON'T HAVE THAT INSTANCE, DO WE?

BUT THEN --.

WHOSE WITH THE PICKING SOMEONE BACK UP THIS DEFENDANT BY THE WAY?

THE RECORD DOES NOT REFLECT WHERE HE IS RIGHT NOW OTHER THAN THE FACT HE IS NOT IN , . WOULD THIS BE BATCH CHIS?

IN THE MAINSTREAM PUBLIC AND NOT IN , NOT IN THE OPINION, THE COURT ALSO USED THE WORDS THAT IT MANDATORY BUT NOT NECESSARILY JURISDI STILL THE SAME LANGUAGE. THAT IS THE LANGUAGE. SO THE , AS THE COURT POINTED OUT AND AS THE THE IT IS MANDATORY, SHALL.

THERE IS NO PENALTY TO RESPOND. IF HE IS IN PRISON , HE IS STILL IN PRISON.