

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH OF PENNSYLVANIA**

**v.**

**JULIAN RUFFIN,  
Defendant**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**CR-1227-2016**

**NOMINAL BAIL**

**OPINION and ORDER**

On April 10, 2017, Defense Counsel filed a Motion for Release on Nominal Bail Pursuant to Rule 600<sup>1</sup>. An argument and factual hearing took place on May 5, 2017. For the following reasons, the request for Nominal Bail is denied.

**Background**

Julian Ruffin (Defendant) is charged with Delivery of a Controlled Substance, Possession of a Controlled Substance, Criminal Use of a Communication Facility, and Criminal Conspiracy. The charges stem from an alleged incident on May 29, 2016. The matter is joined for trial with CP-41-CR-0001231-2016.

**Factual Findings/Conclusions of Law**

For purposes of Pretrial Incarceration, only periods of delay caused by the defendant are excluded from the computation of the length of time of any pretrial

---

<sup>1</sup> Pa.R.Crim.P 600 (D) Remedies ... (2) Except in cases in which the defendant is not entitled to release on bail as provided by law, when a defendant is held in pretrial incarceration beyond the time set forth in paragraph (B), at any time before trial, the defendant's attorney, or the defendant if unrepresented, may file a written motion requesting that the defendant be released on nominal bail subject to any nonmonetary conditions of bail imposed by the court as permitted by law. A copy of the motion shall be served on the attorney for the Commonwealth concurrently with filing. The judge shall conduct a hearing on the motion.

incarceration. Any other periods of delay shall be included in the computation. Pa.R.Crim.P. 600. (2012) (**Prompt Trial.** (C) Computation of Time).

Charges were filed against Defendant on June 9, 2016. As of the date of the Nominal Bail hearing, Defendant had been held in pretrial incarceration for 329 days (June 10, 2016, through May 5, 2017). The preliminary hearing scheduled for June 10, 2016, was continued at the request of the MDJ. A subsequently scheduled preliminary hearing was continued at the request of the Commonwealth. The preliminary hearing did take place on July 18, 2016.

As such the time between the initial incarceration and the preliminary hearing, 39 days, are included in the computation.

Defense Counsel filed a Motion to Dismiss on October 17, 2016. A hearing was scheduled for November 2, 2016. The mere filing of a pretrial motion does not automatically render a defendant unavailable for trial, and the case was not called for trial on October 18, 2016. The Court will include the 16 days from the filing of the Motion to Dismiss and the date set for hearing in the computation of the length of time of pretrial incarceration.

The Commonwealth requested a continuance of the Motion to Dismiss and it was scheduled for November 28, 2016, in Courtroom #4. No hearing was held on that date, and an Order of Court, dated November 10, 2016, grants the Commonwealth's continuance request and sets the Motion to Dismiss for January 5, 2017. Order of Court, 11/10/2016. The Court attributes the period of time from June 6, 2016, to January 5, 2017, (119 days) in its computation of time

of pretrial incarceration. The delay after January 5, 2017, is attributable to the actions of Defense Counsel and thus will not be included in the computation.

Defense Counsel was not present at the November 10, 2016, hearing but was served with a copy of the grant of the Commonwealth's Motion for Continuance of hearing to January 5, 2017, and did not raise objection with the Court.

Defense Counsel requested a continuance of the January 5, 2017, hearing on the Motion to Dismiss.

Defense Counsel failed to appear at Call of the List on April 18, 2017, and Judge Lovecchio granted the co-defendant's motion for a continuance. The matter was placed on the May pretrial list with Call of the List scheduled for June 6, 2017. The Order states "For Rule 600 purposes this time shall run against the defendant." Order of Court, 4/26/2017.

### **Conclusion**

The Court finds that the Defendant has been incarcerated from June 10, 2016, to the present, however only 119 are included in the computation of time of pretrial incarceration as all other delay is attributed to the Defense.

**ORDER**

**AND NOW**, this 9th day of May, 2017, for the foregoing reasons, the Motion for Release on Nominal Bail Pursuant to Rule 600 is DENIED.

BY THE COURT,

---

Nancy L. Butts, P.J.

cc: Andrea Pulizzi, Esq. Defense Counsel  
Nicole Ippolito, Esq. ADA  
Gary Weber, Lycoming Law Reporter