

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

COMMONWEALTH	:	
	:	
v.	:	No.: 03-10,078
	:	
GARY WAYNE LEECH, JR.,	:	
Defendant	:	

OPINION AND ORDER

Before the Court is the Defendant's Motion to Dismiss filed February 12, 2004 alleging that he is entitled to dismissal of the charges pending against him in the above-captioned information because more than 365 days have elapsed since the filing of the criminal charges against him on December 16, 2002. For the following reasons, this Court will deny the Motion to Dismiss.

Defendant was charged on December 16, 2002 by the Pennsylvania State Police and preliminary hearing was held on January 9, 2003. Once Defendant's case came to court, Defense Counsel conceded that multiple continuances were granted to the Commonwealth without any objection from the Defendant or his counsel. Specifically, the Court finds that continuances were granted to the Commonwealth on May 29, 2003 through July 17, 2003, from September 26, 2003 through November 6, 2003, from November 5, 2003 through December 18, 2003 and from December 18, 2003 through February 17, 2004. The information contained within the Court file specifically substantiates the

assertion that each of these continuances was granted without objection by the Defendant or his attorney. Where neither a Defendant nor his attorney objects to the delay in his case, a delay caused by a Commonwealth continuance request is excludable from the time within which the Commonwealth is required to bring a Defendant to trial under Rule 600. Commonwealth v. Pate, 421 Pa. Super. 122, 617 A.2d 754 (1992). Therefore, in this case, the Court finds that less than 365 days have passed for Rule 600 purposes since the filing of the complaint.

ORDER

AND NOW, this _____ day of March, 2004, for the reasons stated above, the Defendant's Motion to Dismiss filed February 12, 2004 is DENIED.

By the Court,

_____J

xc: Charles Hardaway, Esquire
Mary Morris, Esquire
Court Scheduling Technician
Gary Weber
Judges
Judge Nancy L. Butts
Law Clerk