

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 1176 – 2006  
: vs. : CRIMINAL DIVISION  
: JAMES GARNES, :  
: Defendant : Motion for Violation of Rule 600

**OPINION AND ORDER**

Before the Court is Defendant's Motion for Violation of Rule 600, filed December 5, 2006. A hearing on the motion was held December 7, 2006.

Defendant was charged with attempted homicide on March 20, 2006, and was arrested on June 9, 2006. He has been incarcerated since that time and in the instant motion, contends he is entitled to release on nominal bail pursuant to Rule 600, as December 5, 2006, was the 180<sup>th</sup> day since his incarceration began. *See* Pa.R.Crim.P. Rule 600(E). It appears, however, that the case was scheduled for arraignment on September 11, 2006, but that neither Defendant nor his attorney appeared. While Defendant was incarcerated at that time, his attorney should have nevertheless appeared. Had he appeared, the matter would have been listed for a status conference on October 26, but since he did not, it was instead listed, by Order dated September 26, 2006,<sup>1</sup> for a status conference on November 29, 2006, a delay of 34 days. This time is chargeable to the defense, Pa.R.Crim.P. Rule 600(C)(3)(a), and thus the 180<sup>th</sup> day for purposes of Rule 600 is not until January 8, 2007. Defendant is not entitled to relief.

**ORDER**

AND NOW, this 11<sup>th</sup> day of December 2006, for the foregoing reasons, Defendant's Motion for Violation of Rule 600, is hereby DENIED.

BY THE COURT,

cc: DA  
PD  
Gary Weber, Esq.  
Hon D. Anderson

Dudley N. Anderson, Judge

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<sup>1</sup> Apparently, by that date it was somehow brought to the attention of the Deputy Court Administrator that Defendant was incarcerated, and that the matter could proceed.