

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA  
COMMONWEALTH OF PENNSYLVANIA : NO. CR -1316-2006  
vs. : CRIMINAL DIVISION  
NATHAN DIEFENDERFER, :  
Defendant : Motion to Dismiss

**OPINION AND ORDER**

Before the Court is Defendant's Motion to Dismiss, filed June 19, 2007. Argument on the motion was heard August 3, 2007.

Defendant has been charged with conspiracy and delivery of a controlled substance and related offenses by Complaint filed June 14, 2006. Defendant contends more than 365 days have elapsed and the matter has yet to go to trial, arguing a violation of Rule 600 warrants dismissal of the case. A review of the case's procedural history reveals no excludable time. It appears the matter has been ready for trial since January 10, 2007, but has not yet been reached due to other matters being heard instead.

Where, as here, the delay has resulted from congestion in the court calendar, the court must establish that it has devoted a reasonable amount of its resources to the criminal docket and that it scheduled the criminal trial at the earliest possible date consistent with the court's business. Commonwealth v. Spence, 627 A.2d 1176 (Pa. 1993), citing Commonwealth v. Crowley, 466 A.2d 1009 (Pa. 1983). The instant matter is currently scheduled for pre-trial on August 7, 2007, and it appears it will be heard during the trial term immediately following the pre-trial conference. The Court takes note of the lengthy criminal trial list in this County, and believes the matter has indeed been scheduled at the earliest possible time, considering that the cases given priority over Defendant's case have Rule 600 run dates earlier than that of Defendant's case. The Court thus finds that dismissal of the case at this time is not warranted.<sup>1</sup>

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<sup>1</sup> Should the delay become extended, however, Defendant might at that time be entitled to relief, assuming there continues to be no excludable time.

**ORDER**

AND NOW, this 6<sup>th</sup> day of August 2007, for the foregoing reasons, Defendant's Motion to Dismiss is hereby DENIED.

BY THE COURT,

Dudley N. Anderson, Judge