

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-1280-2007
:
vs. :
: CRIMINAL
STEPHEN LYONS, :
Defendant : Motion for Nominal Bail under Rule 600

ORDER

AND NOW, this day of February 2008, the Court DENIES Defendant's Motion for Nominal Bail under Rule 600. The criminal complaint was filed in this case on June 12, 2007. The original preliminary hearing was scheduled for June 21, 2007, but the defense requested a continuance. The preliminary hearing was rescheduled for July 12, 2007. At the pre-trial conference on December 18, 2007, Defendant's counsel requested a continuance. The Court granted the continuance and scheduled this case for a pre-trial conference on February 14, 2008; however, as a result of this continuance the case could not be tried until the February/March 2008 criminal trial term.¹ In Commonwealth v. Robinson, 498 Pa. 379, 386, 446 A.2d 895, 899 (Pa. 1982), the Pennsylvania Supreme Court stated that the number of days to be excluded is not governed solely by the length of the continuance; instead, the number of days to be excluded is that "period of delay . . . as results from" the continuance. Therefore, the period of excludable time does not stop on February 14, 2008, but continues at least to the first day the case could be tried if not to the last day of the trial term.²

1 Jury selections for this term are February 27-29, 2008 and the trial dates are March 3-7; March 10-14; and March 17-18. Defendant's case is scheduled for jury selection on February 28, 2008 at 1:30 p.m., which would be considered the commencement of trial for Rule 600 purposes. Pa.R.Cr.P. 600 comment.

2 The practical effect of the continuance request was to remove the case from the January 2008 trial term and place it on the February/March trial term; the pre-trial conference date for the February/March trial term was February 14, 2008.

By The Court,

Kenneth D. Brown, P.J.

cc: Stephen Lyons, c/o Lycoming County Prison
Kenneth Osokow, Esq. (ADA)
Gary Weber, Esquire (Lycoming Reporter)