

Discussion

The applicability of Rule 600 is contingent on whether the defendant is released on bail or incarcerated. “[T]rial in a court case in which a written complaint is filed against the defendant, when the defendant is at liberty on bail, shall commence no later than 365 days from the date on which the complaint is filed.” Pa.R.Crim.P. 600(A)(3). “[A] Trial court must grant a Rule 600(G) motion to dismiss unless it finds that the Commonwealth has exercised due diligence and that the circumstances occasioning the postponement were beyond its control.” Commonwealth v. Meadius, 870 A.2 802, 805 (Pa. 2005) (citing Pa.R.Crim.P. 600(G)). The exercise of “due diligence” requires the Commonwealth to do everything reasonable within its power to guarantee that a trial begins on time. See id. at 807-08.

Where the defendant is incarcerated, the trial “shall commence no later than 180 days from the date on which the complaint is filed.” Pa.R.Crim.P. 600(A)(2). “Any defendant held in excess of 180 days is entitled upon petition to immediate release on nominal bail.” Pa.R.Crim.P. 600(E). In determining when the trial should commence, the unavailability of the defendant’s attorney or any continuances granted at the request of the defendant’s attorney are excluded. Pa.R.Crim.P. 600(C)(3).

Here, the Defendant has not been at liberty on bail, but incarcerated at the Lycoming County Prison. Therefore, the Defendant’s trial was to commence no later than 180 days from the date on which the complaint was filed. The complaint was filed on April 28, 2012, if there was no excludable time the trial was to commence by October 25, 2012. Defense counsel, however, requested a continuance of the preliminary hearing, with that additional time trial was to be held on November 2, 2012. As more than 180 days have passed since the criminal

complaint was filed the Defendant is eligible for nominal bail.

The Defendant is currently serving a sentence for DUI charges committed in this county imposed by Judge Richard A. Gray. When she is eligible for release onto supervision on or about December 18, 2012, the Defendant shall also be released in this case on nominal bail. As provided for in Pa.R.Crim.P. 527, while the Court must release the Defendant on nominal bail, it may require that the Defendant comply with any special condition. As such, this Court shall require the Defendant to report to Christopher Ebner, Supervised Bail Officer.

ORDER

AND NOW, this _____ day of December, 2012, based upon the foregoing Opinion, the Court finds that the Defendant is entitled to nominal bail pursuant to Pa.R.Crim.P. 600(E). Therefore, the Defendant's Motion for Release on Nominal Bail is **GRANTED**. It is **ORDERED** and **DIRECTED** that Defendant be released on ROR bail with the additional condition that she report to Christopher Ebner of the Supervised Bail Program and abide by all the conditions of that program including but not limited to residing at the approved address in Middleburg, PA.

By the Court,

Nancy L. Butts, President Judge

xc: DA
Pete Campana, Esq.
Eileen Dgien, Dep. CA
Chris Ebner, SBC