

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :
 :
 : **CR-376-2012**
 v. : **CRIMINAL DIVISION**
 :
 DAVID GRISSOM, :
 Defendant :

OPINION AND ORDER

The Commonwealth filed a Motion for Release on Nominal Bail Pursuant to Pa.R.Crim.P. § 600(E) on October 23, 2012. A hearing on the motion was held on November 5, 2012.

Background

On February 2, 2012, David Grissom (Defendant) was arrested and charged with thirty-six (36) robbery related charges, such as Criminal Conspiracy,¹ Robbery,² Criminal Trespass,³ Simple Assault – Physical Menace,⁴ and Terroristic Threats.⁵ Bail was set at \$200,000, which the Defendant was unable to post. A preliminary hearing was scheduled for February 2, 2012, but was continued at the request of the Commonwealth. On February 28, 2012, a preliminary hearing was held in front of Magisterial District Judge James G. Carn. Arraignment was originally scheduled for March 26, 2012, but was continued to April 16, 2012 at the request of the Defendant. On May 10, 2012, over the objection of the Defendant, a pre-trial conference was continued at the request of co-defendants. The Defendant argues that he is eligible for immediate release on nominal bail pursuant to Rule 600(C).

¹ 18 Pa.C.S. § 903(a)(1).

² 18 Pa.C.S. § 3701(a)(1).

³ 18 Pa.C.S. § 3503(a)(1)(i).

⁴ 18 Pa.C.S. § 2701(a)(3).

⁵ 18 Pa.C.S. § 2706(A).

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 February 3, 2012, if there was no excludable time the trial was to commence by August 1, 2012. Defense counsel, however, requested a continuance of Arraignment, with that additional time of twenty-one (21) days the trial was to be held by August 22, 2012. As more than 180 days have passed since the

criminal complaint was filed the Defendant is eligible for 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 comply with the conditions of the intensive supervised bail program and report to Harry Rogers.

ORDER

AND NOW, this _____ day of January, 2013, 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 he report to Harry Rogers of the Intensive Supervised Bail Program and abide by all the conditions of that program.

By the Court,

Nancy L. Butts, President Judge

xc: DA
Pete Campana, Esq.
Eileen Dgien, Dep. CA
Harry Rodgers