

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION**

<b>COMMONWEALTH OF PENNSYLVANIA</b>	:	
	:	<b>CR-1235-2015</b>
v.	:	
	:	
<b>TERENCE FORSYTHE,</b>	:	<b>NOMINAL BAIL</b>
<b>Defendant</b>	:	<b>RELEASE</b>

**OPINION and ORDER**

The Defendant is charged in a criminal Information with one count of Delivery of a Controlled Substance; two counts of Possession with Intent to Deliver a Controlled Substance; one count of Criminal Use of a Communication Facility; two counts of Possession of a Controlled Substance; and one count of Possession of Drug Paraphernalia. On June 3, 2015, the Defendant was arrested on the charges and after a preliminary arraignment on June 4, 2015, in front of Magisterial District Judge Whiteman was committed to county prison as Defendant was unable to post bail set at \$200,000. This Court granted a motion to suppress evidence on March 1, 2016, which it reaffirmed on reconsideration on March 31, 2016. The Commonwealth appealed to the Superior Court of Pennsylvania on that same date and a decision is awaited. On April 8, 2016, Defense Counsel filed a Motion for Release on Nominal Bail Pursuant to Pa.R.Crim.P. 600(D)(2) or, in the Alternative, to Modify the Monetary Condition of Bail. The Court heard argument on the motion on April 28, 2016.

The Court finds that the Defendant has been incarcerated from June 4, 2015, to the present, and more than 180 days are not excludable i.e. not due to actions of the Defense. The calculation for pre-trial incarceration, excludable time, is different than, commencement of trial, excludable time; where the former excludes only time delays

attributable the Defense and the latter considers the due diligence of the Commonwealth in bringing the matter to trial. Commonwealth v. Dixon, 589 Pa. 28, 907 A2d. 468 (2006).

The Court finds that the time period of June 4, 2015, through June 15, 2015, (12 days) i.e. the time period between Preliminary Arraignment and the Preliminary Hearing, is not excludable time. This wait was not due to any action of the Defendant; therefore, it is included in the computation. Pa.R.Crim.P. Rule 600(C) Computation of Time. The time period between June 15, 2015, and July 20, 2015, is excludable, as the Preliminary Hearings scheduled for June 15, 2015, and July 6, 2015, were both continued, at the request of Defense Counsel. The time period between July 20, 2015, and August 17, 2015, (29 days), i.e. the time period between the Preliminary Hearing and Formal Arraignment, is not excludable. The time period between September 11, 2015, and December 29, 2015, (110 days) is not excludable. Defendant filed pre-trial motions on December 29, 2015, and until the time that the Court issued its decision on those pre-trial motions, i.e. March 1, 2016, the time is excludable i.e. attributable to an action of the Defendant. The Court issued its Opinion and Order on Defendant's Pre-Trial Motions on March 1, 2016.

Defendant continues to be incarcerated in Lycoming County Prison as of this date. After March 1, 2016, all delay is not excludable as it is attributable to actions not of Defense Counsel. As such, on March 31, 2016, Defendant spent his 181st day in pretrial incarceration and is from that time forward, eligible for unsecured bail of \$1.00.

Nothing in this computation for Pretrial Incarceration time<sup>1</sup> is dispositive in the calculation of time for Speedy Trial purposes<sup>2</sup>, in the event that becomes of issue.

**AND NOW**, this 17th day of May, 2016, after hearing the motion of Defense Counsel to release Defendant on nominal bail, the motion is GRANTED. It is ORDERED and DIRECTED that Defendant is released on unsecured bail of \$1.00, with a special condition that Defendant must call in to the Supervised Bail Office of Lycoming County every Monday until further Order of the Court.

Defendant's release address is 6013 Race St., Philadelphia, PA 19139. Defendant is not to reside with any known felons and is not to be present in any place where drugs and/or guns are present in addition to any and all conditions of the Bail Release Program not inconsistent with this Order.

BY THE COURT,

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Nancy L. Butts, President Judge

cc: Martin Wade, Esq. Assistant District Attorney  
Melissa Kalas, Esq. Assistant District Attorney  
Pete Campana, Esq. Defense Counsel  
Lycoming County Prison, Harry Rogers

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<sup>1</sup> Pa.R.Crim.P Rule 600(B)

<sup>2</sup> Pa.R.Crim.P. Rule 600(A)