

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	: No. CP-41-CR-154-2018
Appellant	:
vs.	: CRIMINAL DIVISION
	:
	:
ETHAN ENTZ,	:
Appellee	: 1925(a) Opinion

**OPINION IN SUPPORT OF ORDER IN
COMPLIANCE WITH RULE 1925(a) OF
THE RULES OF APPELLATE PROCEDURE**

This Opinion is written in support of this court’s Order entered on April 30, 2019, which granted Appellee’s Motion to Dismiss Pursuant to Rule 600, and the Order entered on May 30, 2019, which denied Appellant’s Motion for Reconsideration.

The court would rely on its Opinion and Order entered on April 30, 2019 and its order entered on May 30, 2019. In addition, the court notes the following.

Contrary to Appellant’s assertion in its Motion for Reconsideration (para. 9, n.2), Ms. Dgien did not testify that the Commonwealth had never requested a continuance or an extension of trial. Instead, when asked whether the Commonwealth had requested a continuance at any point or represented that it was not prepared to go to trial, Ms. Dgien replied, “I don’t have the docket. The only indication I have from the District Attorney’s Office would have been unavailability during trial terms.” N.T., 3/21/2019, at 8 (emphasis added). The Commonwealth never showed the docket to Ms. Dgien, introduced the docket as an exhibit, or asked the court to take judicial notice of the docket entries or the court file.

In its Motion for Reconsideration, the Commonwealth wanted another

opportunity to present evidence to show that it exercised due diligence. Even according to the Commonwealth's calculations more than 365 days had elapsed since the filing of the criminal complaint. Therefore, the only issue at the first hearing was whether the Commonwealth had exercised due diligence. To grant the Commonwealth a "second bite at the apple" to present additional evidence in opposition to the Rule 600 motion would condone or reward the Commonwealth's lack of preparedness and due diligence at the original Rule 600 hearing.

DATE: _____

By The Court,

Marc F. Lovecchio, Judge

cc: Joseph Ruby, Esquire (ADA)
Andrea Pulizzi, Esquire
Work file
Gary Weber, Esquire (Lycoming Reporter)
Superior Court (original & 1)