

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

**COMMONWEALTH OF PENNSYLVANIA** :  
 :  
 **v.** : **CP-41-CR-192-2018**  
 :  
 :  
 **BRUCE JACKSON,** : **RULE 600 DISMISSAL**  
 **Defendant** :

**OPINION AND ORDER**

Bruce Jackson (Defendant) filed a Motion to Dismiss Pursuant to Rule 600 of the Rules of Criminal Procedure on October 3, 2019. A hearing on the Motion was held on October 14, 2019. For the following reasons Defendant’s Motion is **GRANTED**.

**Discussion**

“Trial in a court case in which a written complaint is filed against the defendant shall commence within 365 days from the date on which the complaint is filed.” Pa. R. Crim. P. 600(A)(2)(a). At any time prior to trial a defendant “may file a written motion requesting that the charges be dismissed with prejudice on the ground that this rule has been violated.” Pa. R. Crim. P. 600(D)(1). In computing the time for purposes of Rule 600, only “when the Commonwealth has failed to exercise due diligence” shall that time be included against the Commonwealth, “[a]ny other periods of delay shall be excluded from the computation.” Pa. R. Crim. P. 600(C)(1). When determining whether a violation of Rule 600 occurred two important functions must be weighed “the protection of the accused's speedy trial rights, and the protection of society. In determining whether an accused's right to a speedy trial has been violated, consideration must be given to society's right to effective prosecution of criminal cases, both to restrain those guilty of crime and to deter those contemplating it.” *Commonwealth v. Moore*, 214 A.3d 244, 248 (Pa. Super. 2019). “Excludable time is classified as periods of delay caused by the defendant,” whereas “[e]xcusable delay occurs

where the delay is caused by circumstances beyond the Commonwealth's control and despite its due diligence.” *Id.* at 248-49. Neither excludable or excusable time counts towards a defendant’s Motion to Dismiss Pursuant to Rule 600. *Id.* at 249 “[T]ime attributable to the normal progression of a case simply is not ‘delay’ for purposes of Rule 600.” *Commonwealth v. Mills*, 162 A.3d 323, 325 (Pa. 2017). Additionally, “where a trial-ready prosecutor must wait several months due to a court calendar, the time should be treated as ‘delay’ for which the Commonwealth is not accountable.” *Id.*

The Court will first determine excludable time. Defendant’s criminal complaint was filed on December 21, 2017, and therefore Defendant’s initial mechanical run date was December 21, 2018. *See Commonwealth v. Barbour*, 189 A.3d 944, 947 (Pa. 2018) (Description of how to calculate and adjust mechanical Rule 600 dates). Defendant only requested one continuance from February 28, 2019 to April 29, 2019. Defendant’s mechanical run date therefore is adjusted sixty-one (61) days to February 20, 2019.

From there the burden rests on the Commonwealth to demonstrate “due diligence” to determine what amount of time is excusable delay. At the hearing, the Commonwealth provided no testimony or documentary evidence and conceded that the requisite number of days has passed. Defendant had two other pending cases, CR 1597-2017 and CR 1767-2018, which an agreement had been reached to bring CR 1597-2017 to trial prior to CR-2018. The Commonwealth argued that the delay should be considered excusable because it believed the above case was a part of that agreement, but concedes that the above case is not on the record as being a part of the agreement and the Commonwealth was mistaken. Since the Commonwealth has provided no testimony or documentary evidence of why the delay was excusable and further admits that the delay was a result of its own mistaken interpretation of

the agreement in Defendant's other cases, this Court has no choice but to find that over three hundred sixty-five days have run for purposes of Rule 600. Therefore Defendant's case must be dismissed.

**ORDER**

**AND NOW**, this 21<sup>st</sup> day of October, 2019, based upon the foregoing Opinion, Defendant's Motion to Dismiss Pursuant to Rule 600 of the Rules of Criminal Procedure is hereby **GRANTED**. It is **ORDERED** and **DIRECTED** that Defendant's case is **DISMISSED** with prejudice.

By the Court,

Nancy L. Butts, President Judge

cc: DA (KO)  
Peter Campana, Esq.