

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA : No. CR-1758-2019
:
vs. :
:
: **Opinion and Order regarding**
NATHANIEL N. HILL, : **Defendant's Motion to Dismiss**
Defendant : **For Violation of Rule 600**

OPINION AND ORDER

Defendant filed a Rule 600 Motion to Dismiss on September 13, 2021 at 8:36 a.m., and a bench trial was set to begin at 9:00 a.m. the same day. In his Motion, Defendant alleges that “the Defendant has requested no continuances in this matter” and that “the Commonwealth failed to exercise due diligence and the circumstances occasioning the postponement[s] were within the control of the Commonwealth.” *See Motion at Paragraphs 14 and 15.* The Court heard argument at the outset of trial.

Rule 600 of the Pennsylvania Rules of Criminal Procedure governs a defendant’s right to a speedy trial. *Com. v. Morgan*, 484 Pa. 117, 398 A.2d 972, 974 (1979). When a defendant has not been to trial within 365 days from the date on which the complaint was filed, the charges must be dismissed. Pa.R.Crim.P. 600(A)(2)(a) and (D)(1). While the start date for the prompt trial calculation is the date on which the criminal complaint is filed, delay that is not attributable to the Commonwealth when the Commonwealth has exercised due diligence must be excluded from the computation of the 365 days. Pa.R.Crim.P. 600 (A)(2)(a) and (C)(1); *Com. v. McCarthy*, 180 A.3d 368, 375 (Pa. Super. 2018). The failure to meet this prompt trial requirement constitutes grounds for dismissal. Rule 600 (D)(1); *Com. v. Mills*, 162 A.3d 323, 324 (Pa. 2017).

The mechanical run date is the date by which the trial must commence under Rule 600. *Com. v. Ramos*, 936 A.2d 1097, 1102 (Pa. Super. 2007). It is calculated by adding 365 days to the date on which the criminal complaint is filed and can be modified or extended by adding to the date any periods of time in which delay is caused by the defendant. *Id.* Once the mechanical run date is modified, it is known as an adjusted run date. *Id.*

Additionally, in its Order of March 16, 2020, the Pennsylvania Supreme Court stated that the “President Judge specifically SHALL HAVE THE AUTHORITY to suspend the operation of Rule of Criminal Procedure 600” *See March 16, 2020 Order at Paragraph 3* (emphasis in original). The Honorable Nancy L. Butts, the President Judge of the Lycoming County Court of Common Pleas, issued several Orders between March of 2020 and May of 2021 specifically stating that statewide “Rules pertaining to the rule-based right of criminal defendants to a prompt trial” are suspended. *See, generally, Administrative Orders at Paragraph 2(b).*

Turning to the instant matter, the Criminal Complaint filed was filed October 7, 2019, making the mechanical run date October 7, 2020. Defendant waived his arraignment and was scheduled for Call of the List on January 14, 2020. *See December 5, 2019 Order. At the request of the Defendant*, a continuance was granted and the case was scheduled for the March 27, 2020 Call of the List, adding seventy-three (73) days to the run date, therefore making the adjusted run date December 19, 2020. *See January 24, 2020 Order.* Due to the COVID-19 pandemic, the Court sua sponte continued the case to the Call of the List scheduled for May 29, 2020 and, for the same reason, again continued to the case to the August 7, 2020 Call of the List. *See March 16, 2020 and May 15, 2020 Orders.* These

continuances, as authorized by the Pennsylvania Supreme Court, extended the run date by one hundred and thirty-three (133) days, making the adjusted run date May 1, 2021.

The case was not reached during the August 2020 trial term and a pre-trial conference was held in September 2020. **At the request of the Defendant**, a second continuance was granted, with the Call of the list being scheduled for January 8, 2021, adding one hundred and fifty-four (154) days to the run date, making the adjusted run date October 2, 2021. *See September 22, 2020 Order*. Trial was held on September 13, 2021, prior to the adjusted run date.

Defendant argues that the pandemic alone is not enough to violate his right to a speedy trial.¹ However, as noted above, this case was continued due to two sua sponte continuances by the Court, as well as two continuance requests by the Defendant. At no point did the Commonwealth request a continuance. For these reasons, no violation of Rule 600 has occurred and Defendant's Motion is denied.

¹ Counsel for Defendant cited to the case of Commonwealth v. Wells but did not provide the Court with the specific citation to that case. After a diligent search, the Court is unable to determine which case Counsel for Defendant was referring to.

ORDER

AND NOW, this 15th day of September 2021, upon consideration of Defendant's Motion to Dismiss and for the reasons set forth above, Defendant's motion to dismiss pursuant to Rule 600 is **DENIED**.

By The Court,

Ryan M. Tira, Judge

cc: DA (MS)
Andrea Pulizzi, Esquire
Gary Weber, Esquire
Alexandra Sholley – Judge Tira's Office