

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

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-1369-2020
	:	
vs.	:	
	:	
LAMONT CRADLE,	:	CRIMINAL DIVISION
Defendant	:	

ORDER

AND NOW, this 15th day of **February, 2022**, a hearing and argument on the Defendant’s Motion to Dismiss Charges Pursuant to Pa.R.Crim.P. 600 was held on February 10, 2022, at which time the Commonwealth was represented by Matthew Welickovitch, Esquire, and the Defendant appeared personally and was represented by Michael Morrone, Esquire.

A Criminal Complaint was filed on or about April 17, 2020, charging the Defendant with two (2) counts of Possession With Intent to Deliver Controlled Substance, two (2) counts of Criminal Use of a Communication Facility, and two (2) counts of Possession of a Controlled Substance, stemming from an offense that occurred on or about August 30, 2019. Defendant has been incarcerated since September 17, 2020. Defendant’s Arraignment was on November 2, 2020, and his trial is scheduled for February 24, 2022.

Defendant requests that the charges against him and the criminal information be dismissed with prejudice, as more than 365 days have elapsed since the filing of the Criminal Complaint and the Defendant has not yet been brought to trial in violation of Rule 600(A)(2) of the Rules of Criminal Procedure.

However, as a result of the COVID-19 pandemic, much of the time since the filing of the Criminal Complaint does not run for Rule 600 purposes. Pursuant to Orders of the Pennsylvania Supreme Court and Administrative Orders of President Judge Nancy Butts as authorized by the Supreme Court, Rule 600 was suspended during the following time periods:

March 16, 2020, to April 14, 2020; April 1, 2020, to April 30, 2020 (Supreme

Court); April 27, 2020, to May 15, 2020; May 14, 2020, to June 7, 2020; June 8, 2020, to June 28, 2020; July 2, 2020, to August 7, 2020; August 6, 2020, to September 18, 2020; September 17, 2020, to December 31, 2020; December 4 2020, to January 31, 2021; January 31, 2021, to March 12, 2021, and March 11, 2021, to May 13, 2021.

On April 17, 2020, the date that the Criminal Complaint was filed, the Court was already under the suspension of time calculations for Rule 600 purposes. For purposes of Rule 600 time calculations, only a four day period of time (between June 28, 2020, and July 2, 2020) is included from the time the Criminal Complaint was filed until May 13, 2021. Therefore, at a minimum, the Commonwealth would have until May 9, 2022, to bring the Defendant to trial.

Additionally, when the defendant or the defense has been instrumental in causing the delay, the period of delay will be excluded from computation of time. *See, e.g. Commonwealth v. Matis*, 710 A.2d 12 (Pa. 1998). The instant case was originally scheduled for Jury Selection from May 17-21, 2021. Per the request of defense counsel, the matter was continued until July 13, 2021, in order to give Defendant's new counsel additional time to prepare. While the continuance request did not specifically indicate that the time between the date of the continuance request was excluded from the time within which the trial must commence in accordance with Rule 600, a period of delay at any stage of the proceedings as results from either the unavailability of the defendant or the defendant's counsel or any continuance granted at the request of the defendant or the defendant's attorney must be excluded from time computations. Additionally, on July 16, 2021, upon request of the Defense, the case was moved to the September 17, 2021, pre-trial list. These delays may have resulted in additional time being excluded for purposes of Rule 600 calculations.

The Defendant is scheduled for a trial on February 24, 2022, and the time excluded pursuant to the state and local administrative orders during the COVID-19 pandemic is sufficient to satisfy the Court that the Commonwealth is still well within the 365 day limit in

which it must bring the Defendant to trial. Accordingly, the Defendant's Motion to Dismiss Charges Pursuant to Pa.R.Crim.P. 500 is **DENIED**.

By the Court,

Ryan M. Tira, Judge

RMT/jel

CC: DA (MW)
Mike Morrone, Esquire
Gary Weber, Esquire
Jennifer Linn, Esquire