

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CP-41-CR-226-2021
	:	CP-41-CR-546-2021
	:	CP-41-CR-859-2020
v.	:	CP-41-CR-860-2020
	:	CP-41-CR-864-2020
	:	
	:	
DERRICK V. DRAFT,	:	NOMINAL BAIL PURSUANT
Defendant	:	TO RULE 600

OPINION AND ORDER

Derrick Draft (Defendant) filed a Nominal Bail Motion on March 14, 2022. This Court held a hearing on the motion on March 28, 2022. For the following reasons, Defendant’s motion is granted in part and denied in part.

Background and Procedural History

Under docket number CR-226-2021, Defendant is charged with Count 1, Possession with the Intent to Deliver¹, Count 2, Escape², and Count 3, Flight to Avoid Apprehension or Arrest³. The charges arise out of an incident on January 21, 2021 as the result of an executed search warrant at 936 Louisa Street, City of Williamsport. Defendant was arrested on February 5, 2021 and held in lieu of bail. At his preliminary hearing on February 16, 2021, the charge of Escape was withdrawn and the Defendant’s bail remained at \$75,000 good bail, which the Defendant was still unable to post. Defendant has been incarcerated continuously under this docket since February 2, 2021. As of the date of the filing of this motion, March 14, 2022, the Defendant has been incarcerated for 372 days. However, there were several periods of time that Defendant requested a continuance. According to the official files, the Defendant asked for a

¹ 35 Pa. C.S. § 780-113(a)(30).

² 18 Pa. C.S. § 5121(A).

³ 18 Pa. C.S. § 5126(a)

continuance knowing that the time was to run against him from June 4, 2021 until October 4, 2021 and December 14, 2021 until April 4, 2022. This excludable time totals 232 days. When subtracted from the total time the Defendant has been incarcerated, the net total time for Rule 600(b) purposes is 140 days of incarceration. This total does not exceed the 180 day run-period as required for relief pursuant to Rule 600.

Under docket number 864-2020, Defendant was arrested by the Pennsylvania State Police and arraigned on May 5, 2020, on charges filed which related to the items found by the Pennsylvania State Police on or around the Defendant at his arrest, such as crack cocaine partially packaged for sale, a small amount of marijuana and related paraphernalia. Bail was set at \$85,000 good bail and the Defendant has remained continuously incarcerated in this case since May 5, 2020, or 666 days. However, there were also several periods of time in this case where the Defendant asked for a continuance knowing that the time would be excludable or run against him for Rule 600(b) purposes. The total excludable time ran from July 23, 2020 to December 11, 2020, and from December 11, 2020 to July 13, 2021, which totals 354 days. An additional period of time in which the Defendant asked for a continuance from one trial term to the next was December 14, 2021 until April 4, 2022, totaling 110 days. Subtracting these periods of excludable time from Defendant's incarceration on this docket, the net total time for Rule 600 purposes, or 666 minus 464 days is 202 days, which exceeds the 180 days.

With respect to the cases filed to docket numbers 546-2020, 860-2020 and 859-2020 the Commonwealth concedes that 180 days have passed pursuant to Rule 600(b).

Discussion

“Except in cases in which the defendant is not entitled to release on bail as provided by law, no defendant shall be held in pretrial incarceration in excess of 180 days from the date on

which the complaint is filed.” Pa.R.Crim.P. 600(B)(1). At any time when a defendant is incarcerated beyond the time set forth under Pa.R.Crim.P. 600(B), “the defendant's attorney, or the defendant if unrepresented, may file a written motion requesting that the defendant be released immediately on nominal bail subject to any nonmonetary conditions of bail imposed by the court as permitted by law.” Pa. R. Crim. P. 600(D)(2). When evaluating a motion for release on nominal bail pursuant to Rule 600, “only periods of delay caused by the defendant shall be excluded from the computation...Any other periods of delay shall be included in the computation.” Pa.R.Crim.P. 600(C)(2). There have been several delays in these cases which may be excluded from the Rule 600 calculations.

Rule 600(E) states that mandatory remedy of nominal release after 180 days of incarceration is not the same as unconditional release. Pa.R.Crim.P. 600 (E). Release may be conditioned on terms that not only give adequate assurance that the accused will appear for trial, but also assures that victims, witnesses, and the community will be protected. Rule 600(E) permits a trial court to impose non-monetary conditions, such as house arrest and electronic monitoring. *Commonwealth v. Sloan*, 907 A.2d 460 (Pa. 2006). Although the Defendant will be not be released at this time under docket 226-2021, Defendant is eligible for release without the posting of bail in the other previously listed cases. Once the remaining time runs under docket number 226-2021, the Defendant can be placed onto the Intensive Supervised Bail with a specific exclusion zone for the maximum protection of the victim. The Defendant shall be precluded from any direct or indirect contact with the victim as well.

ORDER

AND NOW, this 11th day of April, 2022, based upon the foregoing Opinion, Defendant's Motion for Nominal Bail is hereby **GRANTED IN PART and DENIED IN PART**. Defendant will not be released without the posting of bail pursuant to Rule 600(E) under docket 226-2021 as 180 days has not run. However, in all of the other cases listed here, more than 180 days of incarceration has passed. On these cases, the Defendant is eligible for release without the posting of bail and required to be placed onto the Intensive Supervised Bail program. Specific exclusion zones for the maximum protection of the victim shall also be imposed as an additional condition of the Defendant's release. The Defendant shall also be precluded from any direct or indirect contact with the victim.

By the Court,

Nancy L. Butts, President Judge

cc: DA
Tyler Calkins, Esq.
Harry Rogers, SB Coordinator