

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

|                                     |   |                              |
|-------------------------------------|---|------------------------------|
| <b>COMMONWEALTH OF PENNSYLVANIA</b> | : |                              |
|                                     | : | <b>CP-41-CR-1315-2021</b>    |
| <b>v.</b>                           | : |                              |
|                                     | : |                              |
|                                     | : |                              |
| <b>SENECA MITCHELL,</b>             | : | <b>NOMINAL BAIL PURSUANT</b> |
| <b>Defendant</b>                    | : | <b>TO RULE 600</b>           |

**OPINION AND ORDER**

Seneca Mitchell (Defendant) filed a Nominal Bail Motion on March 28, 2022. This Court held a hearing on the motion on April 25, 2022. For the following reasons, Defendant's motion is denied.

**Background and Procedural History**

Defendant is charged with Count 1, Possession of a Firearm with an Altered Manufacturer Number<sup>1</sup>, a felony of the second degree; Firearms not to be Carried Without a License<sup>2</sup>, a misdemeanor the first degree; and two (2) counts of Criminal Conspiracy to Use a Firearm to Commit a Theft of Illegal Narcotics,<sup>3</sup> each a felony of the first degree. The charges arise out of an incident that occurred on August 24, 2021. Defendant was arrested on August 24, 2021, with bail being set in the amount of \$100,000 good bail.

Defendant's first preliminary hearing was scheduled on September 2nd and a continuance was requested on behalf of the defendant until September 9, 2021. On that date, the Commonwealth requested a continuance until September 16, 2021. On September 16th, defense counsel requested a continuance to September 30, 2021. On that date, the Commonwealth was unavailable and the preliminary hearing was rescheduled to October 14,

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<sup>1</sup> 18 Pa. C.S. § 6110.2.

<sup>2</sup> 18 Pa. C.S. § 6106(a)(2).

<sup>3</sup> 18 Pa. C.S. § 903(a).

2021. Defendant was held for court on all charges and his formal court arraignment was scheduled for November 1, 2021. Defendant waived his formal court arraignment and his case was scheduled for a pretrial conference on December 13, 2021.

On November 15, 2021, Defendant requested an extension to file an omnibus pretrial motion. On November 17, 2021, over the Commonwealth's objection, the Court gave Defendant an additional sixty (60) days to file his omnibus pretrial motion. On December 13, 2021, Defendant requested a continuance because his omnibus pretrial motion was not due until January 16, 2022. The Court granted Defendant's continuance request and rescheduled the case for a pre-trial conference on March 8, 2022. The Court noted on the continuance request form that the time until March 8, 2022 was attributable to Defendant and excludable for Rule 600 purposes.

Defendant filed his omnibus pretrial motion on January 6, 2022. The motion was scheduled for hearing and argument on March 24, 2022. On or about March 1, 2022,<sup>4</sup> Defendant requested a continuance of the March 8th pretrial conference because his omnibus motion was outstanding. The Court granted the continuance request and scheduled this case for a July trailing trial list with the first day of jury selection for that list on July 11, 2022. On March 24, 2022, the Commonwealth requested a continuance because the District Attorney was ill. The Court granted the continuance and rescheduled the hearing on Defendant's omnibus motion to June 17, 2022. On March 28, 2022, Defendant filed his Nominal Bail Motion.

## **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

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<sup>4</sup> The request is dated March 1, 2022 but it was docketed on March 3, 2022.

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).

Defendant has been incarcerated continuously under this docket since August 24, 2021. As of the date of the filing of this motion, March 28, 2022, Defendant has been incarcerated for 216 days. However, there have been several delays in this case which may be excluded from the Rule 600 calculations. Defendant requested two continuances of the preliminary hearing: one from September 2, 2021 to September 9, 2021 and another from September 16, 2021 to September 30, 2021. These twenty-one (21) days are excludable. The 127 days from November 17, 2021 through March 24, 2022 is also excludable delay attributable to Defendant due to his request for an extension to file an omnibus pretrial motion, his continuance of the December 2021 pretrial conference, and his continuance of the March 2022 pretrial conference due to his outstanding omnibus motion.

When the 148 days of excludable time is subtracted from the 216 days Defendant has been incarcerated between the filing of the complaint and the filing of his Nominal Bail Motion, the net total time the Defendant has been incarcerated for Rule 600(b) purposes is sixty-eight (68) days as of March 28, 2022. This total does not exceed the 180-day run period. Therefore, the motion shall be denied.

**ORDER**

**AND NOW**, this 1st day of June 2022, based upon the foregoing Opinion, Defendant's Motion for Nominal Bail is hereby **DENIED**.

By the Court,

Nancy L. Butts, President Judge

cc: DA  
PD (JL)