

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH	: No. CR-200-2021; 238-2021; 240-2021
	:
vs.	:
	: Opinion and Order re
JESSE DERICK GIDDINGS,	: Defendant's Motion to Dismiss
Defendant	: Pursuant to Rule 600

OPINION AND ORDER

This matter came before the court on motions to dismiss pursuant to Rule 600 filed by Jesse Giddings (Giddings).

In case 240-2021, Williamsport Bureau of Police filed a criminal complaint against Giddings on December 18, 2020. The criminal complaint charged Giddings with robbery and related offenses as a result of an incident at the Boost Mobile store at 620 Hepburn Street in Williamsport on November 12, 2020 and an incident at the Family Dollar Store at 1221 West Fourth Street in Williamsport on November 16, 2020.

In case 238-2021, Williamsport Bureau of Police filed a criminal complaint against Giddings on December 29, 2020, charging Giddings with robbery and related offenses with respect to an incident that occurred on November 25, 2020 at the Your Choice Discount store at 653 Washington Boulevard in Williamsport.

In case 200-2021, the Pennsylvania State Police filed a criminal complaint on February 2, 2021, charging Giddings with robbery and related offense with respect to an incident that occurred on December 3, 2020 at the Subway store on 1733 E. Third Street, Loyalsock Township.

On December 30 2022, Giddings filed motions to dismiss with prejudice pursuant to Rule 600 in all three cases. Due to the unavailability of witnesses, hearings were held on

May 2, 2023; June 8, 2023; and August 21, 2023. At the hearing, the Commonwealth presented three witnesses and fifteen exhibits. The Commonwealth presented evidence of the administrative orders suspending Rule 600 in Lycoming County through May 31, 2021 due to the COVID-19 pandemic, defense continuance requests, the cases that were on the trials lists and the cases that were called for trial. Giddings presented three exhibits.

After review of all the evidence presented and consideration of the arguments of the parties, the court finds that Giddings is not entitled to relief.

DISCUSSION

“When a defendant has not been brought to trial within the time limits set forth in paragraph (A), at time prior to trial, the defendant’s attorney, or the defendant if unrepresented, 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). Paragraph (A) provides that trial in a court case in which a written complaint is filed shall commence within 365 days from the date on which the complaint is filed. Pa. R. Crim. P. 600 (A)(2)(a). For purposes of calculating the amount of time under paragraph (A), “periods of delay at any stage of the proceedings cause by the Commonwealth when the Commonwealth has failed to exercise due diligence shall be included in the computation of the time within which trial must commence. Any other periods of delay shall be excluded from the computation.” Pa. R. Crim. P. 600 (C)(1).

The court must ascertain the cause of the delay. Defense delay is referred to as excludable delay; other delay outside the control of the Commonwealth is referred to as “excusable” delay. *See Commonwealth v. Ramos*, 936 A.2d 1097, 1102 (Pa. Super. 2007); *Commonwealth v. Hunt*, 858 A.2d 1234, 1241 (Pa. Super. 2004). “Stated in the most general

terms, when the Commonwealth cause the delay the Rule 600 clock continues to tick; when the defendant causes the delay, the clock stops.” *Commonwealth v. Barbour*, 189 A.3d 944, 958 (Pa. 2018). Furthermore, a defendant must have a valid Rule 600 claim at the time he files his motion to dismiss charges to be eligible for relief. *Commonwealth v. Jones*, 886 A.2d 689, 699 (Pa. Super. 2005), citing *Commonwealth v. Brown*, 875 A.2d 1128, 1134 (Pa. Super. 2005).

The defense conceded that COVID delay from the filing of the charges through May 31, 2021 was excludable.¹ N.T., 08/21/2023, at 31.

There also were several defense continuance requests in 2021. Defendant filed and was granted a continuance request from April 27, 2021 to July 13, 2021. Commonwealth Exhibit 2, page 1 (Order dated 04/27/2021).

Another defense continuance request was granted from the July 13, 2021 pretrial to the first day of jury selection on October 4, 2021 with a new pretrial date of September 14, 2021. Commonwealth Exhibit 2, page 2 (Order dated 07/13/2021).

The assistant public defender filed a motion to withdraw from this case and Attorney Robert Hoffa entered his appearance to represent Giddings. Attorney Hoffa then requested a continuance, and the case was continued from the September 14, 2021 pretrial to the first day of jury selection on January 10, 2022. Commonwealth Exhibit 2, page 3 (Order dated 09/14/2021).

240-2021

¹ The Lycoming County administrative orders specifically stated that the speedy trial rule was suspended. See Commonwealth Exhibit 1. Therefore, this time is excludable delay. *Commonwealth v. Carl*, 276 A.3d 743 (Pa.

The criminal complaint was filed on December 18, 2020. Adding 365 days to December 18, 2020 yields a mechanical run date of December 18, 2021. From December 18, 2020 through May 31, 2021, however, the statewide prompt trial rules (e.g., Rule 600) were suspended in Lycoming County.² Therefore, the 165 days between December 18, 2020 and May 31, 2021 are excludable time. *Commonwealth v. Carl*, 276 A.3d 743 (Pa. Super. 2022). These additional 165 days would adjust the run date to May 31, 2022.

The first defense continuance request resulted in an additional 43 days of delay through July 13, 2021. Adding 43 days of excludable time to May 31, 2022 extends the adjusted run date to July 13, 2022.

The second defense continuance request resulted in 83 days of excludable delay from July 14, 2021 through October 3, 2021. Adding 83 days to July 13, 2022 extends the adjusted run date to October 4, 2022.

The third defense continuance request resulted in 98 days of excludable delay from October 4, 2021 to January 10, 2022. Adding 98 days to October 4, 2022 extends the adjusted run date to January 10, 2023.

In other words, there was excludable delay due to the suspension of Rule 600 during the COVID pandemic and defense continuances from the filing of the complaint until January

Super. 2022).

² The administrative orders for this time period were dated August 6, 2020; September 17, 2020; December 4, 2020; January 27, 2021; March 11, 2021; and May 11, 2021. Paragraph 2b of these orders stated: “The following **statewide rules are suspended**:...b. Rules pertaining to the rule-based right of criminal defendants to a prompt trial.

10, 2022 or a total of 388 days. Adding 365 days to the date the complaint was filed results in a mechanical run date of December 18, 2021. Adding 388 days to the mechanical run date results in an adjusted run date of January 10, 2023.

Giddings filed his motion to dismiss on December 30, 2022. As of that date, the adjusted run date was no earlier than January 10, 2023. Since Giddings did not have a valid Rule 600 claim at the time he filed his motion, he is not entitled to dismissal of the charges in 240-2021. *Jones*, 886 A.2d at 699.

238-2021

The criminal complaint was filed on December 29, 2020. Adding 365 days to December 29, 2020 yields a mechanical run date of December 29, 2021. From December 29, 2020 through May 31, 2021, however, the statewide prompt trial rules (e.g., Rule 600) were suspended in Lycoming County. Therefore, the 153 days between December 21, 2020 and May 31, 2021 are excludable time. *Commonwealth v. Carl*, 276 A.3d 743 (Pa. Super. 2022). These additional 153 days would adjust the run date to May 31, 2022.

The first defense continuance request resulted in an additional 43 days of delay through July 13, 2021. Adding 43 days of excludable time to May 31, 2022 extends the adjusted run date to July 13, 2022.

The second defense continuance request resulted in 83 days of excludable delay from July 14, 2021 through October 3, 2021. Adding 83 days to July 13, 2022 extends the adjusted run date to October 4, 2022.

The third defense continuance request resulted in 98 days of excludable delay from October 4, 2021 to January 10, 2022. Adding 98 days to October 4, 2022 extends the adjusted run date to January 10, 2023.

In other words, there was excludable delay due to the suspension of Rule 600 during the COVID pandemic and defense continuances from the filing of the complaint until January 10, 2022 or a total of 377 days. Adding 365 days to the date the complaint was filed results in a mechanical run date of December 29, 2021. Adding 377 days to the mechanical run date results in an adjusted run date of January 10, 2023.

Giddings filed his motion to dismiss on December 30, 2022. As of that date, the adjusted run date was no earlier than January 10, 2023. Since Giddings did not have a valid Rule 600 claim at the time he filed his motion, he is not entitled to dismissal of the charges in 238-2021. *Jones*, 886 A.2d at 699.

200-2021

The criminal complaint was filed on February 2, 2021. Adding 365 days to February 2, 2021 yields a mechanical run date of February 2, 2022. From February 2, 2021 through May 31, 2021, however, the statewide prompt trial rules (e.g., Rule 600) were suspended in Lycoming County. Therefore, the 118 days between February 2, 2021 and May 31, 2021 are excludable time. *Commonwealth v. Carl*, 276 A.3d 743 (Pa. Super. 2022). These additional 118 days would adjust the run date to May 31, 2022.

The first defense continuance request resulted in an additional 43 days of delay through July 13, 2021. Adding 43 days of excludable time to May 31, 2022 extends the adjusted run date to July 13, 2022.

The second defense continuance request resulted in 83 days of excludable delay from July 14, 2021 through October 3, 2021. Adding 83 days to July 13, 2022 extends the adjusted run date to October 4, 2022.

The third defense continuance request resulted in 98 days of excludable delay from

October 4, 2021 to January 10, 2022. Adding 98 days to October 4, 2022 extends the adjusted run date to January 10, 2023.

In other words, there was excludable delay due to the suspension of Rule 600 during the COVID pandemic and defense continuances from the filing of the complaint until January 10, 2022 or a total of 342 days. Adding 365 days to the date the complaint was filed results in a mechanical run date of February 2, 2022. Adding 342 days to the mechanical run date results in an adjusted run date of January 10, 2023.

Giddings filed his motion to dismiss on December 30, 2022. As of that date, the adjusted run date was no earlier than January 10, 2023. Since Giddings did not have a valid Rule 600 claim at the time he filed his motion, he is not entitled to dismissal of the charges in 200-2021. *Jones*, 886 A.2d at 699.

ORDER

AND NOW, this ____ day of January 2024, the court denies Defendant's Motion to Dismiss With Prejudice Pursuant to Rule 600.

By The Court,

Nancy L. Butts, President Judge

cc: Matthew Welickovitch, Esquire
Robert Hoffa, Esquire
Jerri Rook
Gary Weber