

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

vs.

PETER SINGER,
Defendant

: No. CR-856-2025

:

: Order Regarding Motion

: Modify Bail/Nominal Bail (Rule 600)

:

:

OPINION AND ORDER

This matter came before the court on November 24, 2025 for a hearing and argument on Defendant's Motion to Modify Bail-Rule 600.

Defense counsel argued that Defendant was entitled to nominal bail pursuant to Rule 600 because Defendant had been incarcerated on these charges since April 24, 2025 and the defense did not request any continuances and there was no excludable time. As he was incarcerated more than 180 days, he was entitled to release on nominal bail.

The Commonwealth argued that there were 92 days of excludable time between the filing of Defendant's pretrial motion to dismiss/habeas corpus on July 23, 2025 and the court's decision denying the motion filed on October 23, 2025. Therefore, Defendant had not been incarcerated more than 180 days once the excludable delay was deducted from the computation.

At the hearing, neither party presented any evidence; however, after the court asked if the parties agreed to the court taking judicial notice of the court record, the parties stipulated that the court could take judicial notice of the orders and other documents in the court file. Counsel for both parties are reminded that **arguments of counsel are not evidence**. *See Commonwealth v. Puksar*, 597 Pa. 240, 951 A.2d 267, 280 (2008) ("it is well-settled that arguments of counsel are not evidence."). Were it not for the court's question that resulted in

the stipulation, there would be no evidence of record upon which the court could make a decision including but not limited to the date of the criminal complaint, the date of Defendant's incarceration, the date of Defendant's pretrial motion, the date of the decision denying the pretrial motion, or the trial term on which this case was placed.

Based on the stipulation, the court find the following facts:

1. The criminal complaint was filed on April 24, 2025.¹
2. Defendant was incarcerated on April 24, 2025.²
3. At arraignment, this case was scheduled for a pretrial conference on October 14, 2025. The first day of jury selection was November 19, 2025 and the trial term was November 19, 2025 through December 23, 2025.³
4. On July 14, 2025, the Honorable Ryan C. Gardner set Defendant's bail at \$50,000 monetary bail, not 10% eligible⁴ but Defendant remained incarcerated unable to post bail.
5. Defendant filed a motion to dismiss/petition for writ of habeas corpus on July 23, 2025.
6. Judge Gardner held a hearing on Defendant's motion on September 15, 2025.⁵
7. On October 20, 2025, Defendant filed his motion to modify bail-Rule 600.
8. At the pretrial conference held on October 14, 2025, the parties agreed this case would be a one-day trial and would remain on the trial list.⁶

¹ See Docket Transcript from Magisterial District Judge (MDJ) filed on 06/25/25.

² See *id.*

³ See Order entered July 16, 2025.

⁴ See Order entered July 22, 2025 (but dated July 14, 2025).

⁵ See Order entered July 29, 2025 scheduling the hearing.

⁶ See Order entered October 28, 2025.

9. Judge Gardner denied Defendant's motion on October 23, 2025.⁷

DISCUSSION

With respect to pretrial incarceration and nominal bail, Rule 600 states:

(B) 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

(1) 180 days from the date on which the complaint is filed....

(C) **Computation of Time**

* * *

(2) For purposes of paragraph (B), only periods of delay caused by the defendant shall be excluded from the computation of the length of time of any pretrial incarceration. Any other periods of delay shall be included in the computation.

(D) **Remedies**

* * *

(2) Except in cases in which the defendant is not entitled to release on bail as provided by law, when a defendant is held in pretrial incarceration beyond the time set forth in paragraph (B), at any time before trial, 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. A copy of the motion shall be served on the attorney for the Commonwealth concurrently with filing. The judge shall conduct a hearing on the motion.

Pa. R. Crim. P. 600.

Defendant was incarcerated on April 24, 2025 and he was not able to post bail. He filed his motion on October 20, 2025. Therefore, when the motion was filed, Defendant was incarcerated for 180 days.

Defendant argues that there is no excludable time. The Commonwealth argues that the 92 days between the filing of Defendant's motion to dismiss on July 23, 2025 and the

⁷ See Opinion and Order entered on October 23, 2025.

date the court denied it on October 23, 2025 should be excludable delay because the Commonwealth could not bring Defendant to trial while the motion was pending. Defendant counters that his motion did not delay trial because the motion was decided before trial term set by the court in the arraignment order.

Initially, the court notes that the computation of time is different when depending on whether the court is determining eligibility for nominal bail as opposed to dismissal of the charges. When determining nominal bail, only delays of trial attributable to the defense are excluded. *See* Pa. R. Crim. P. 600 (C)(2). When determining whether charges should be dismissed, only delays attributable to the Commonwealth which were within the Commonwealth's control and for which the Commonwealth failed to exercise due diligence are included; all other delay is excluded. *See* Pa. R. Crim. P. 600 (C)(1). Therefore, any computation in this Opinion only pertains to nominal bail; it does not pertain to dismissal of the charges.

[T]he mere filing of a pretrial motion by a defendant does not automatically render him unavailable. Rather, a defendant is only unavailable for trial if a delay in the commencement of trial is caused by the filing of the pretrial motion.”

Commonwealth v. Hill, 558 Pa. 238, 736 A.2d 578, 587 (1999). At the time of the hearing, it was clear that the motion did not delay trial, because Judge Gardner decided the motion before the jury selection date and trial term and Defendant did not request a continuance from that term. In fact, although the motion was pending at the time of the pretrial conference, the case was kept on the trial list as a one-day trial. Therefore, pursuant to *Hill*,

the time attributable to the motion would not constitute excludable time.⁸

ORDER

AND NOW, this 3rd day of December 2025, the court GRANTS Defendant's motion for nominal bail. Although the court cannot set monetary conditions of bail due to Defendant's eligibility for nominal bail, it may set nonmonetary conditions. It is the intent of the court that the nonmonetary conditions set by Judge Gardner on or about July 14, 2025 shall remain in full force and effect. The court finds that such conditions include but are not limited to the following:

1. Defendant shall be placed on intensive supervised bail, report weekly in person, and be subjected to field contacts at the discretion of pretrial services. Defendant shall also follow any directives of pretrial services and immediately respond to any communications from pretrial services.
2. Defendant shall have no contact with the victim, direct or indirect.
3. Defendant shall be required to wear a GPS monitor and be subject to exclusion zones from the victim's place of residence, school and/or employment.
4. Defendant shall undergo a mental health assessment and evaluation and shall comply with any recommendations and/or treatment.

⁸ In the future, it may be advisable for defense counsel to wait until the pretrial motion is decided before filing a Rule 600 motion for nominal bail as the court cannot determine whether the pretrial motion caused a delay of trial until the motion has been decided. If the motion had not been decided at the time of the hearing, the court likely would have denied the motion without prejudice to refile it after the motion had been decided. *See Hill, supra*; *see also Commonwealth v. Hunt*, 858 A.2d 1234, 1243 (Pa. Super. 2004)(en banc)(regarding a defendant must be eligible for the relief requested at the time the motion is filed). However, as defendant had been incarcerated 180 days at the time of the filing of the motion and it was apparent when the motion was heard that the motion did not delay trial such that no time during that 180-day period is excludable, he is entitled to relief in this case. Furthermore, the Commonwealth did not argue that Defendant was not entitled to relief because the motion had not been decided at the time the motion was filed; therefore, it waived any such claim. Under the facts and circumstances of this case, it would be a waste of judicial resources to require Defendant to re-file the motion and hold another hearing when it is apparent that the motion to dismiss/petition for writ of habeas

5. Defendant must obtain homesite approval prior to release.

By The Court,

Nancy L. Butts, President Judge

cc: Jessica Feese, Esquire (ADA)
Giovanna Daniele, Esquire (APD)
Jerri Rook

corpus did not delay the trial in this case.