

**IN THE COURT OF COMMON PLEAS LEBANON COUNTY  
PENNSYLVANIA**

**CRIMINAL DIVISION**

**COMMONWEALTH OF  
PENNSYLVANIA**

**v.**

**DAREN WALLACE**

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**NO. CP-38-CR-804-2023**

**ORDER OF COURT**

**AND NOW**, this 3rd day of February 2025, in accordance with the attached Opinion, the Order of this Court is as follows:

1. The Defendant's Motion to Dismiss under Pa.R.Crim.P. 600 is DENIED.
2. The Defendant's Request for Nominal Bail under Pa.R.Crim.P. 600 is GRANTED. The Defendant shall be immediately released from custody on ROR bail.
3. This case remains on the Trial List for the February 2025, Term of Court. Both the Commonwealth and the Defendant are advised that no further continuances will be afforded to either side absent emergency cause. Neither scheduling conflicts of counsel nor lack of time to prepare will be considered emergency cause.

BY THE COURT:

  
J.  
BRADFORD H. CHARLES

BHC/pmd

cc: Court Administration  
District Attorney's Office- Amy Muller, Esq.  
Public Defender's Office- Michael Light II, Esq.

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**NO. CP-38-CR-804-2023**

**APPEARANCES**

**Amy Muller, Esquire  
DISTRICT ATTORNEY**

**For Commonwealth of  
Pennsylvania**

**Michael Light II, Esquire  
PUBLIC DEFENDER**

**For Defendant**

**OPINION BY CHARLES, J., February 3, 2025**

Before us is a dispute involving the Defendant's right to a speedy trial under Pa.R.Crim.P. 600. The Defendant seeks to have all of his charges dismissed because the Commonwealth has not brought him to trial within 365 days of includable time under Rule 600. The Commonwealth seeks to have the Defendant kept in prison because it believes that less than 180 days of includable time exists since charges were filed. Because we conclude that more than 180 but less than 365 days of includable time exist in this case, we will be denying the Defendant's Motion to Dismiss.

However, we will grant the Defendant's Request for Release on Nominal Bail pending his trial in February. Reasons for these decisions will follow.

## **I. FACTUAL BACKGROUND**

In 2003, Daren Wallace, (hereafter "DEFENDANT") was charged with three (3) counts of Involuntary Deviate Sexual Intercourse relating to a victim who was less than 16 years of age. He was found guilty by a jury in Lancaster County on May 6, 2004. On July 1, 2004, DEFENDANT was sentenced by a Lancaster County Judge to serve 5 to 10 years of incarceration. He was advised at the time that he would have to register as a sex offender for a period of 10 years.

Following DEFENDANT's incarceration, DEFENDANT received a letter from the Pennsylvania State Police stating: "*Under the new [Sexual Offender Registration and Notification Act (SORNA)] statute, your sexual offender classification is Tier 3. This designation requires that you register as a sexual offender with the Pennsylvania State Police for Lifetime.*" On March 27, 2023, DEFENDANT was charged by the Lebanon City Police Department with Failure to Comply with his Registration Requirements. The allegation asserted was that DEFENDANT failed to verify his address and whereabouts between February 22, 2023, and March 3, 2023.

DEFENDANT was arrested and arraigned on June 5, 2023. An odyssey of legal maneuvering followed the filing of charges that included multiple continuances, multiple Motions to Dismiss by DEFENDANT, and a

Commonwealth Appeal followed by a withdrawal of that Appeal. Eventually, on December 17, 2024, DEFENDANT filed a Motion to Dismiss claiming that his right to a speedy trial under Pa.R.Crim.P. 600 was violated. As is typical of everything in this case, the Commonwealth disagreed with DEFENDANT's calculation of includable time under Rule 600. Both sides have provided this Court with their very different impressions of the time that should be includable under Rule 600. We issue this Opinion today in order to set forth our conclusions regarding DEFENDANT's speedy trial arguments.

## **II. LEGAL PRINCIPLES**

Pa.R.Crim.P. 600 codifies a defendant's right to a speedy trial under Pennsylvania law. In basic terms, Rule 600 requires the Commonwealth to try every case within 365 days under penalty of dismissal if the Rule is violated. In addition, Rule 600 provides that when a defendant is not tried within 180 days, he is entitled to release on nominal bail. The question in most Rule 600 disputes involves the amount of time that is "includable" to calculate the 180- and 365-day time deadlines outlined above.

As it relates to includable time, Rule 600 states:

### **"(c) Computation of Time**

(1) For purposes of Paragraph(A) [the 365-day dismissal Rule], periods of delay at any stage of the proceedings caused 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.

(2) For purposes of Paragraph (B) [the 180-day no-incarceration Rule], only periods of delay caused by the defendant shall be excluded from the computation of the length of time of any pre-trial incarceration. Any other periods of delay shall be included in the computation."

Pa.R.Crim.P. 600 (B)

As is obvious from the above, the methodology of calculating time for purposes of the 365-day dismissal rule is somewhat different than the methodology of calculating time under the 180-day no-incarceration rule. The former focuses upon delay affirmatively caused by the Commonwealth while the latter includes all time other than delay affirmatively caused by a defendant.

Rule 600 also includes a specific provision dealing with continuance requests by a defendant. Subsection (C) of Rule 600 specifically excludes time related to the following:

- (1) The time between the filing of the written Complaint and the defendant's arrest;<sup>1</sup>
- (2) Any time stemming from the unavailability of the defendant or the defendant's attorney;
- (3) Any continuance granted at the request of the defendant or the defendant's counsel.

When time is excluded by virtue of a defense continuance, the excludable time includes not only the days when the defendant or counsel was

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<sup>1</sup> This time is excludable only where the Commonwealth employs "due diligence" to locate the defendant.

unavailable, but the entire period of the delay caused by the unavailability. ***Commonwealth v. Wentzel***, 641 A.2d 1207 (Pa. Super. 1994).

Under Pa.R.Crim.P. 600, the Commonwealth bears the burden of managing a case so that it can be brought to trial in a timely fashion. ***Commonwealth v. Mattis***, 710 A.2d 12 (Pa. 1998); ***Commonwealth v. Browne***, 584 A.2d 902 (Pa. 1990). Time attributed to the normal progress of a case is not considered “delay” for purposes of Rule 600. ***Commonwealth v. Mills***, 162 A.3d 323 (Pa. 2017). While judicial delay is excludable from the time calculations under Rule 600, Courts are instructed to “differentiate between time necessary for ordinary trial preparation and judicial delay arising out of the Court’s own scheduling concerns.” ***Commonwealth v. Mills***, supra at page 325. In addition, as a general rule, time required to address defense pre-trial motions is excludable in terms of calculations for Rule 600. ***Commonwealth v. Hill***, 736 A.2d 578 (Pa. 1999).

### **III. DISCUSSION**

In reviewing the calculation of time under Rule 600 that was proffered by both parties, it seems clear that the Commonwealth seeks to employ the calculation paradigm used for the 365-day dismissal deadline as also applicable to the 180-day no-incarceration deadline. In contrast, the defense seems to argue that all time since the filing of the Complaint should be assessed against the Commonwealth for purposes of Rule 600. Needless to say, neither of the above approaches comports with Pennsylvania law.

We have undertaken a *de novo* evaluation of all time that has expired since the filing of the Complaint. In chronological order, we will set forth our findings based upon the docket record of this case:

- (1) March 27, 2023 – June 5, 2023 – This represents the time between the filing of the Complaint and DEFENDANT's arrest and arraignment. This time is specifically excludable under Rule 600.
- (2) June 5, 2023 – June 15, 2023 – This time represents normal progression of the case.
- (3) June 15, 2023 – June 29, 2023 – DEFENDANT sought and received a continuance. This time is excludable.
- (4) June 29, 2023 – September 28, 2023 – This time reflects normal progression of the case.
- (5) September 28, 2023 – October 27, 2023 – The defense requested a continuance. This time is excludable.
- (6) October 27, 2023 – December 18, 2023 – The defense requested a continuance. This time is excludable.
- (7) December 4, 2023 – January 3, 2024 – DEFENDANT filed a Motion to Dismiss. This time during which the Motion was pending is excludable.
- (8) January 3, 2024 – May 20, 2024 – The defense requested a continuance during the pendency of the Motion to Dismiss. This time is excludable.



- (9) May 2, 2024 – July 22, 2024 – The defense requested a continuance. This time is excludable.
- (10) June 13, 2024 – This Court issued an Opinion regarding DEFENDANT's Motion to Dismiss.<sup>2</sup>
- (11) July 12, 2024 – The Commonwealth appealed our Court Order of June 13, 2024. The Appeal divested this Court of jurisdiction to proceed with a trial. The Appeal was withdrawn on October 2, 2024. The period of time during which trial could not commence due to the Commonwealth's Appeal should certainly be assessed against the Commonwealth for purposes of Rule 600. Depending upon whether this includable time is considered to commence on July 12, 2024, (date of Appeal) or July 22, 2024 (end point of DEFENDANT's May 2, 2024, continuance) either 102 days or 112 days must be considered includable under Rule 600.
- (12) October 2, 2024 – November 13, 2024 – This time reflects normal progression of the case.
- (13) November 13, 2024 – December 16, 2024 – The Court was forced to continue this case due to its own scheduling concerns. This time is excludable.
- (14) December 10, 2024 – February 24, 2025 – The Commonwealth requested and was granted a continuance. This time is includable.

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<sup>2</sup> Of significance is the fact that the Court required the Commonwealth to notify it and DEFENDANT within thirty (30) days regarding the question of whether criminal charges could be pursued if only a 10-year SORNA registration requirement applied to DEFENDANT.

We understand that reasonable minds could quibble over some aspects of the time calculation we have undertaken above. That said, it is patently obvious that regardless of whether one utilizes the 180-day no-incarceration time calculation paradigm or the 365-day dismissal calculation paradigm, the amount of includable time applicable in this case falls somewhere between 180 days and 365 days. There is no analytical approach we could perceive that would justify dismissal of charges under Rule 600. On the other hand, neither can we perceive any methodology by which the 180-day no-incarceration threshold has not been met.

Based upon the above, we are compelled to deny DEFENDANT's Request to Dismiss Charges under Pa.R.Crim.P. 600. However, we are also compelled under Rule 600 to afford DEFENDANT with nominal bail effective immediately. Our Court Order today will effectuate both of the above conclusions.