

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

COMMONWEALTH OF PENNSYLVANIA : NO. 01-12,078  
:  
:  
vs. : CRIMINAL DIVISION  
: Motion to Dismiss  
JACOB L. SNYDER, :  
Defendant :

OPINION AND ORDER

Defendant has been charged with two (2) counts of DUI and in the instant Motion to Dismiss, seeks to have those charges dismissed on the grounds that more than one (1) year has passed since the charges were filed, in violation of Rule 600 of the Pennsylvania Rules of Criminal Procedure. In conjunction with his request, Defendant also argues that the Commonwealth acted in bad faith in dismissing and refiled the charges in October 2001. The Court finds it unnecessary to reach that issue, as the five (5) days implicated in that action do not make a difference in the calculation of the Rule 600 run date. The Court finds specifically that only 269 countable days have elapsed since the charges were originally filed.

An examination of both files indicates the following time line:

- April 26, 2000 criminal complaint filed to No. 00-11,094, charging Defendant with DUI
- May 23, 2000 summons issued
- May 26, 2000 summons returned
- June 26, 2000 preliminary hearing held
- July 21, 2000 information filed
- October 25, 2000 Defendant files Motion to Dismiss for violation of Section 110, hearing scheduled for November 27, 2000
- November 27, 2000 Order continuing the matter upon agreement of the parties, matter scheduled for January 30, 2001

December 7, 2000	Defendant's Motion at pre-trial to continue the case to January 5, 2001, case monitoring date, granted
December 11, 2000	Defendant's request to continue the hearing scheduled for January 30, 2001 granted and Motion to Dismiss rescheduled to March 2, 2001
January 5, 2001	case continued at Defendant's request based on the pending pre-trial motion, rescheduled to February 27, 2001
February 27, 2001	case continued at Defendant's request based on pending pre-trial motion, rescheduled to April 17, 2001
March 2, 2001	hearing on Motion to Dismiss held
March 6, 2001	Opinion and Order on Motion to Dismiss entered, Motion denied
April 17, 2001	Defendant's request for continuance granted, matter rescheduled to May 29, 2001
May 18, 2001	Defendant's request for continuance granted, matter rescheduled for June 25, 2001 as a guilty plea
May 23, 2001	Defendant files Motion in Limine seeking to exclude Defendant's statements, scheduled for July 2, 2001
June 28, 2001	Defendant's request for continuance granted and hearing on Motion in Limine rescheduled for August 3, 2001
August 23, 2001	Defendant's request for continuance granted and pre-trial rescheduled to October 4, 2001
October 4, 2001	pre-trial held and trial scheduled for October 26, 2001
October 25, 2001	conference with counsel held, Commonwealth nol prosses the charges
October 31, 2001	charges refiled to No. 01-12,078
November 2, 2001	summons issued
November 7, 2001	summons returned
December 3, 2001	preliminary hearing held
December 17, 2001	Defendant files Petition for Habeas Corpus
January 18, 2002	information filed
February 13, 2002	Order entered denying Petition for Habeas Corpus
February 26, 2002	Defendant files Motion for Reconsideration of that Order
March 22, 2002	Order entered denying Motion for Reconsideration
April 9, 2002	Defendant files the instant Motion to Dismiss

In determining whether Rule 600 has been violated, the Court considers the time from the filing of the complaint to No. 00-11,094 on April 26, 2000 through the date of the Motion to Dismiss filed to No. 01-12,078 on April 9, 2002, excluding delays attributable to the Defendant and either including or excluding the time from when the charges were nol prossed in the first case until they were refiled in the second case, depending upon the circumstances. Commonwealth v Navarro, 453 A.2d 308 (Pa. 1982). In the instant matter, the Court does not reach the issue of whether the Rule should

be tolled for the five (5) day period from October 25, 2001 through October 31, 2001, as only 269 days are counted from April 26, 2000 through April 9, 2002. The Court considers as excludable time those days following the October 25, 2000 Motion to Dismiss through the pre-trial held on October 4, 2001. Also considered excludable are those dates following the December 17, 2001 Petition for Habeas Corpus through the March 22, 2002 Order denying Defendant's Motion for Reconsideration. Thus counted are only the 182 days from April 26, 2000 through October 25, 2000, the 22 days from October 4, 2001 through October 25, 2001, the 47 days from October 31, 2001 through December 17, 2001 and the 18 days from March 22, 2002 through April 9, 2002. Even were the Court to consider the time between its original Order regarding the Habeas Petition on February 13, 2002 and Defendant's Motion for Reconsideration, filed February 26, 2002, a period of 13 days, or even the six (6) days between the nol prosequendo of the first case and the reinstatement of charges in the second case, not more than 365 days have elapsed since the original complaint was filed and Rule 600 has not been violated.

ORDER

AND NOW, this 7<sup>th</sup> day of June, 2002, for the foregoing reasons, Defendant's Motion to Dismiss is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA  
William Miele, Esq.  
Gary Weber, Esq.  
Hon. Dudley N. Anderson