

SUPERIOR COURT OF PENNSYLVANIA

Commonwealth v. Neal

348 Pa. Super. 155 (Pa. Super. Ct. 1985) · Decided October 25, 1985

SUMMARY

The Pennsylvania Superior Court reviewed a Commonwealth appeal from an order dismissing criminal charges for an alleged violation of Pennsylvania Rule of Criminal Procedure 1100. The court held that delays attributable to the defendant or defense counsel extended the time for commencement of trial and for filing a petition to extend, making the Commonwealth’s petition timely. The order discharging the defendant was reversed and the case was remanded for trial.

CASE DETAILS

COURT	Superior Court of Pennsylvania
WRITING FOR THE COURT	Watkins; Geisz; Rowley
JURISDICTION	Pennsylvania
DECIDED	October 25, 1985
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Commonwealth appealed from an order of the Court of Common Pleas of Philadelphia County dismissing criminal charges and discharging the defendant for an alleged violation of Pennsylvania Rule of Criminal Procedure 1100.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Commonwealth v. John R. Neal

TOPICS

- speedy trial
- criminal procedure
- appellate procedure
- preservation of error

PRACTICE AREAS

- criminal procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether Pennsylvania Rule of Criminal Procedure 1100 requires dismissal of the charges when the Commonwealth files its petition to extend the time for trial after the original run date but delays attributable to the defendant or defense counsel extend the commencement-of-trial period.

2. Whether judicial delay, although not attributable to the Commonwealth, extends the period in which the Commonwealth may file a Rule 1100 petition to extend.

HOLDINGS

1. Delays attributable to the defendant or the defendant's attorney extend the period for commencement of trial and consequently extend the period in which the Commonwealth may file a petition to extend the trial deadline under Rule 1100.
2. Judicial delay does not extend the time period in which the Commonwealth may file a petition to extend under Rule 1100, although it is chargeable to the Commonwealth for purposes of evaluating due diligence.

KEY QUOTATIONS

“Thus, we are holding that “judicial delay”, although not attributable to the Commonwealth, does not extend the time period in which the Commonwealth can file its petition to extend. However, delays occasioned by the defendant or his counsel to extend the period of time “for commencement of trial” and therefore extend the period of time in which the Commonwealth can file its petition to extend time.” (159)

FACTUAL BACKGROUND

The criminal complaint was filed on March 3, 1983, producing an original Rule 1100 run date of August 30, 1983. Trial was delayed by the defendant's failure to secure counsel, the unavailability of defense counsel, the defendant's failure to appear for trial, and a resulting bench warrant. The Commonwealth filed its petition to extend the trial period on December 29, 1983, and the trial court denied it and discharged the defendant even though the appellate court found that the Commonwealth had exercised due diligence and was responsible for none of the delay.

PROCEDURAL HISTORY

The trial court denied the Commonwealth's petition to extend the time for trial because it was filed after the original Rule 1100 run date, and it discharged the defendant. The Superior Court held that delays attributable to the defendant or defense counsel extended the commencement-of-trial period and therefore made the petition timely, reversed the discharge order, and remanded for trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The order discharging the defendant is reversed and the case is remanded for trial. Jurisdiction is relinquished.