

FINAL REPORT¹

Revision to the Comment to Pa.Rs.Crim.P. 1013

THE TIME FOR TRIAL IN CASES TRANSFERRED FROM THE COURT OF COMMON PLEAS TO THE MUNICIPAL COURT BUT ARE SUBSEQUENTLY TRANSFERRED BACK TO THE COURT OF COMMON PLEAS

On July 1, 2013, effective August 1, 2013, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision to the *Comment* to Rule of Criminal Procedure 1013, adding a cross-reference to *Commonwealth v. Far*, __ Pa. __, 46 A.3d 709 (2012).

On June 18, 2012, the Court issued its opinion in the case of *Commonwealth v. Far*, __ Pa. __, 46 A.3d 709 (2012), addressing whether the Rule 600 or Rule 1013 speedy trial provisions should be applied when a case is originally brought in the Philadelphia Court of Common Pleas, remanded to the Municipal Court, and subsequently transferred back to the Court of Common Pleas for a Commonwealth-requested jury trial.

Rule 600 provides that a case in which the defendant is free on bail must be brought to trial within 365 days from the filing of the complaint. Rule 1013 contains the speedy trial provisions applicable to the Philadelphia Municipal Court, specifically paragraph (A)(4) that states that a case that originates in the Philadelphia Court of Common Pleas but is then ordered to be tried in the Philadelphia Municipal Court must commence no later than 180 days from the date on which the preliminary arraignment is held or 60 days from the date on which the order is made, whichever is greater.

In *Commonwealth v. Far*, the defendants were originally charged with felony drug distribution on February 6, 2007. After several continuances of the preliminary hearing

¹ The Committee's *Final Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the Committee's explanatory *Final Reports*.

due to the Commonwealth's inability to obtain a chemical laboratory report, the felony charges were withdrawn on July 13, 2007 and the case, which consisted only of misdemeanor charges, was remanded to the Municipal Court. On October 1, 2007, the Commonwealth indicated it would exercise its right to jury trial and petitioned to transfer the case back to the Court of Common Pleas. A preliminary hearing was held on December 7, 2007 and the case was held for trial at the Court of Common Pleas. In February 2008, the defendants moved for dismissal of the charges on speedy trial grounds under Rule 1013(A)(4). The Commonwealth argued that Rule 600 should be applied. The trial court and Superior Court agreed with the defendants' positions and found a speedy trial violation.

This Court reversed, finding that Rule 1013 did not address the situation in which a case is subsequently transferred back to the Court of Common Pleas. Rule 1000 provides, where there is a procedure that is governed by a statewide procedural rule that is not covered by a Chapter 10 rule or Philadelphia local rule, the statewide rule will govern. Furthermore, Rule 1000 defines the Chapter 10 rules as governing "all proceedings in the Philadelphia Municipal Court" and, because the case was no longer in the Municipal Court, it was no longer a proceeding encompassed by Chapter 10.

The Committee concluded that it would be helpful to refer the bench and bar to this analysis. Therefore, the *Comment* to Rule 1013 has been revised to add a cross-reference to the opinion in *Far*.