

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
v.	:	
	:	
DANIELLE NIEHENKE	:	No. 828 WDA 2023

Appeal from the Order Entered June 19, 2023
In the Court of Common Pleas of Clearfield County Criminal Division at
No(s): CP-17-CR-0000989-2021

BEFORE: KUNSELMAN, J., BECK, J., and STEVENS, P.J.E.*

JUDGMENT ORDER BY KUNSELMAN, J.: **FILED: April 23, 2024**

The Commonwealth appeals from the order granting dismissal of the criminal case against Danielle Niehenke under Pennsylvania Rule of Criminal Procedure 600. After review, this Court agrees with the trial court’s opinion, the Commonwealth’s argument, and Niehenke’s concession that the case was set for trial within the time constraints of Rule 600. We therefore reverse and remand for trial.

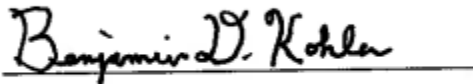
Briefly, the Commonwealth filed a criminal complaint against Niehenke on August 19, 2021. Niehenke caused 302 days of pretrial delay. Trial was scheduled to commence on Monday, June 19, 2023. On Friday, June 16, 2023, Niehenke moved to dismiss under Rule 600. The trial court granted the motion. The Commonwealth appealed.

* Former Justice specially assigned to the Superior Court.

The “adjusted run date” in this case was June 17, 2023—calculated by adding to the complaint date both the 365 days allowed by Rule 600(A)(2)(a) and the 302 days of delay by Niehenke. **See generally Commonwealth v. Wiggins**, 248 A.3d 1285, 1288–89 (Pa. Super. 2021). Because June 17, 2023, was a Saturday, the Commonwealth had until Monday, June 19, 2023, to bring Niehenke to trial. **Commonwealth v. McCarthy**, 180 A.3d 368, 376 (Pa. Super. 2018) (applying 1 Pa.C.S.A. § 1908, and Pa.R.Crim.P. 600, *cmt.*). This was the date Niehenke was scheduled for trial. We therefore reverse the erroneous dismissal of Niehenke’s case under Rule 600.¹

Order reversed. Case remanded. Jurisdiction relinquished.

Judgment Entered.



Benjamin D. Kohler, Esq.
Prothonotary

4/23/2024

¹ We commend the candor of the trial court and defense counsel.