

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : 95-10,757

VS :

DAVID CRIST :

OPINION IN SUPPORT OF ORDER
IN COMPLIANCE WITH RULE 1925(A)
OF THE RULES OF APPELLATE PROCEDURE

This Opinion is written in support of this Court's Order dated July 7, 1999, wherein the Defendant was sentenced to undergo incarceration for a minimum of ten (10) years and a maximum of twenty (20) years on the charge of aggravated assault, serious bodily injury caused; a minimum of five (5) years and a maximum of ten (10) years on the charge of conspiracy to commit the offense of murder, consecutive to the sentence imposed for aggravated assault; and a minimum of two and a half years and a maximum of five (5) years on the charge of endangering the welfare of a child, consecutive to the other charges. The total aggregate sentence was a minimum of seventeen and a half (17 ½) years and a maximum of thirty-five (35) years. It was also the intent of the Court that the sentence would run consecutive to the sentence imposed in the state of Maryland.

The procedural history of the above captioned case is as follows: This matter was before this Court for a jury trial in which the jury found the Defendant guilty of aggravated assault- causes serious bodily injury, aggravated assault- attempted serious bodily injury, criminal attempt –murder, criminal solicitation – murder, conspiracy, endangering the welfare of children, and recklessly endangering another person. On January 21, 1997, the Defendant was sentenced to undergo incarceration for a

minimum of forty-eight (48) months and a maximum of twenty (20) years on the charge of aggravated assault, a minimum of sixty (60) months and a maximum of ten (10) years on the charge of criminal solicitation to commit the offense of murder, a minimum of forty-eight (48) months and a maximum of ten (10) years on the charge of conspiracy to commit murder, a minimum of one year and a maximum of two years on the charge of endangering the welfare of children. It was the intention of the Court to have each of the above sentences run concurrently, and impose an aggregate sentence of fourteen (14) years to forty-two (42) years.

The Defendant appealed his sentence on March 20, 1997. The Superior Court, by Opinion dated May 3, 1999, found that the Defendant could not be convicted for both inchoate crimes. The Superior Court vacated the sentence, and remanded back to this Court for resentencing. The Court resentenced the Defendant on July 7, 1999. The Defendant submitted his appeal of the sentencing order on August 6, 1999. In his statement of matters complained of on appeal, the Defendant argues that the Court abused its discretion when resentencing the Defendant to the maximum period of incarceration.

Instantly, the Court finds that it was not an abuse of discretion to resentence the Defendant on all bills of information where the appellate court has vacated the sentence on the related counts and has upset the trial court's sentencing scheme, see Commonwealth v. Sutton, 400 Pa.Super. 291, 583 A.2d 500 (1990). Additionally, it was not an abuse of discretion to increase the Defendant's sentence to be consistent with the Court's original sentencing scheme, see Commonwealth v. Grispino, 361 Pa.Super. 107, 521 A.2d 950, (1987). Upon consideration of the young victim, her disabilities, the

fact that she was the Defendant's daughter, the fact that the Defendant's motive was money, the fact that the Defendant solicited more than one person to murder his daughter, and the fact that the Defendant was subsequently convicted of the murder of his brother in Maryland, the Court concluded that the minimum sentences for the remaining charges should be increased to reflect the Court's initial sentencing scheme.

Dated: November 17, 1999

By The Court,

Nancy L. Butts, Judge

xc: William Miele, Esquire
Kenneth Osokow, Esquire
Honorable Nancy L. Butts
Law Clerk
Gary Weber, Esquire
Judges