

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO: 00-11,687,
 : 00-11,688
VS : 00- 11,818
RICKEY HILL :

OPINION AND ORDER

Before the Court is Defendant's Motion to Modify Sentence, *Nunc Pro Tunc*. Defendant was arrested and charged with burglary and related offenses after it was alleged that he and four other actors engaged in a series of incidents, stealing vehicles and burglarizing various structures. Following his arrest, Defendant was incarcerated in the Lycoming County Prison from September 28, 2000 through November 2, 2000, when he was placed on the electronic monitoring program. Defendant was on the electronic monitoring program until his sentencing. On March 19, 2001 Defendant pled guilty to numerous counts of Theft, Burglary, Conspiracy and related charges. Defendant was sentenced on June 11, 2001 and was placed under the supervision of the Adult Probation Office, in the Intermediate Punishment Program, for an aggregate period of sixty (60) months, with the first ten (10) months to be served at the Pre-release center. Defendant was given credit for the time he was incarcerated, (September 28, 2000 – November 2, 2000).

Defendant filed the instant motion on August 6, 2001, alleging that according to a recent Pennsylvania Supreme Court decision, *Commonwealth v. Chiappini*, dated July 23, 2001, a defendant is entitled to credit for time spent on the electronic monitoring program. Defendant therefore argues that he should be

entitled to credit for the 7 months that he was on the electronic monitoring prior to his sentencing. Instantly, the Court finds that it is unable to reach the merits of Defendant's motion, however, as the motion for sentence modification was not timely filed in accordance with the Rules of Criminal Procedure,¹ and this Court has consequently lost jurisdiction.

By The Court,

Nancy L. Butts, Judge

xc: DA

E.J. Rymsza, Esquire
Honorable Nancy L. Butts
Judges
Law Clerk
Gary Weber

¹ Under PA.R.Crim.P. 720, all post sentence motions, including motions to modify the sentence, must be filed within 10 days after the imposition of the sentence.