

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : 00-10,073, 00-10,271  
99-11,489

VS :

WALTER CHAPMAN :

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 January 29, 2002, wherein the Defendant was sentenced under the above captioned matters for an aggregate period of incarceration of sixteen (16) to thirty-two (32) months, and a consecutive ten (10) year period of supervision under the Pennsylvania Board of Probation and Parole. Under caption 99-11,489, the Defendant was sentenced to undergo incarceration for a minimum of sixteen (16) months and a maximum of thirty-two (32) months on the charge of institutional vandalism; a minimum of four (4) months and a maximum of twelve (12) months on the charge of desecration of venerated objects, concurrent to the sentence imposed for institutional vandalism; and a minimum of sixteen (16) months and a maximum of thirty-two (32) months on the charge of conspiracy.

Under caption 00-10,271, the Defendant was sentenced to undergo incarceration for a minimum of sixteen (16) months and a maximum of thirty-two (32) months on the charge of Burglary; and a five (5) year period of probation for the charge of conspiracy. Those sentences were to run consecutive to the sentences imposed under 99-11,489.

Under 00-10,073, the Defendant placed under the supervision of the Pennsylvania Board of Probation and Parole for a period of five (5) years, on the charge of conspiracy, consecutive to the sentences imposed on the other matters.

The procedural history of the above captioned case is as follows: This matter was before this Court for a guilty plea on April 3, 2000. On June 29, 2000, the Defendant was sentenced to undergo incarceration for an aggregate period of five (5) years to ten (10) years, with a consecutive ten year period of supervision.<sup>1</sup>

The Defendant appealed his sentence on June 29, 2000. The Superior Court, by Opinion dated August 17, 2001, found that although at the time of the sentence, the Court indicated that it intended to sentence the Defendant in the lower aggravated range, the sentence of the Court was actually above the aggravated range. The Superior Court vacated the sentence, and remanded back to this Court for resentencing. This Court resentenced the Defendant on January 29, 2002. The Defendant submitted his appeal of the sentencing order on February 20, 2002. In his statement of matters complained of on appeal, the Defendant argues that the Court abused its discretion when imposing a ten-year period of probation consecutive to his state sentence, both because of the length and because it is consecutive.

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<sup>1</sup> The breakdown of the previous sentence was as follows:

Caption 99-11,489

Institutional Vandalism: 20-40 months incarceration

Desecration of venerated objects: 4-12 months incarceration, concurrent

Conspiracy: 5 years probation, consecutive

Caption 00-10,271

Burglary: 20-40 months

Conspiracy: 5 years probation, consecutive to 99-11,489

Caption 00-10,073

Conspiracy: 20-40 months, Consecutive to 99-11,489 and 00-10,271

The Court does not agree. In the instant case, the Court considered the sentencing guidelines in determining the appropriate period of incarceration for the Defendant. In determining the appropriate period of probation, the Court also considered the fact that although the Defendant showed having been adjudicated only once, the adjudication was for three separate juvenile burglary offenses. While the offenses were not reflected in the Defendant's prior record score, the Court could factor in these offenses when considering the protection of the public, the gravity of the offense as it relates to the impact the community, and the rehabilitative needs of this Defendant. The Court found the sentence imposed in this case to be appropriate, considering the Defendant's history with these types of offenses. The Court therefore rejects Defendant's argument.

Dated:

By The Court,

Nancy L. Butts, Judge

xc: Kenneth Osokow, Esquire, DA  
Nicole Spring, Esquire, PD  
Honorable Nancy L. Butts  
Law Clerk  
Gary Weber, Esquire  
Judges