

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA,	: NO. 00-10,989
	:
	:
vs.	:
	:
DAMIEN R. STAHL,	:
Defendant	:

APPEAL FROM THE ORDER DATED  
JUNE 17, 2002 IN  
COMPLIANCE WITH RULE 1925(A) OF  
THE RULES OF APPELLATE PROCEDURE

Defendant has appealed from this Court's sentencing Order dated March 21, 2002 and the Order denying his request for reconsideration of that sentence, dated June 17, 2002. Defendant pled guilty to 11 counts of burglary and one count of conspiracy to commit burglary in connection with a vandalism spree which damaged and in one instance, completely destroyed, hunting cabins in several counties. Defendant was sentenced to a term of six months to one-year incarceration on each of the 12 counts, six to run consecutively and the other six to run concurrently, resulting in an aggregate sentence of three to six years incarceration. Further, the sentence was made consecutive to a sentence imposed in Centre County in connection with the same crime spree. In his statement of matters complained of on appeal, Defendant contends the Court erred in failing to rule on a Motion to Withdraw the Guilty Plea prior to imposition of sentence, in refusing to grant Defendant credit for time spent in custody in Clinton County, in refusing to reconsider the sentence imposed and in imposing the sentence consecutive to the sentence imposed in Centre County. These will be addressed seriatim.

With respect to the Motion to Withdraw the Guilty Plea, the Court notes that Defendant did file such a motion on January 9, 2002. Defendant pled guilty on September 21, 2001 and originally, the sentencing hearing was scheduled for November 28, 2001. That hearing was

continued four times, and finally held on March 21, 2002. At some point prior to the sentencing hearing on March 21, 2002, a conference with counsel was held in Chambers and defense counsel, David Marcello, Esq., indicated to the Court that the Motion to Withdraw the Guilty Plea was itself to be withdrawn. It appears no formal withdrawal was ever filed by defense counsel but both David Marcello, Esq. and Defendant's attorney on appeal, Ronald Travis, Esq., were present at the sentencing hearing and neither counsel raised the issue of the outstanding Motion to Withdraw the Guilty Plea. Thus, even if the motion is to be considered as having been outstanding at the time of the sentencing hearing, the Court finds that the issue of the Court's failure to formally rule on the motion has been waived.

Next, Defendant contends the Court erred in refusing to grant Defendant credit toward the sentence imposed in the instant matter for time spent in custody in Clinton County. Defendant refers specifically to his incarceration in Clinton County on a parole violation, which resulted from underage drinking in violation of his parole on another matter. Defendant was sentenced to 5 months incarceration plus a period of 11 months of in-home detention. According to counsel, the sentencing Judge, the Honorable J. Michael Williamson, indicated that the length of that incarceration was extreme because of the pending charges in the instant matter. Defendant offers no authority for the proposition that he should be entitled to credit for time served in another county on another matter. Defendant's proper form of redress for the allegedly unreasonable sentence was, of course, to have appealed that sentence.

With respect to whether the Court erred in refusing to reconsider the sentence imposed, and whether the Court erred in imposing a consecutive sentence (that is, consecutive to the sentence imposed in Centre County), the Court believes that the reasons for the particular sentence imposed, found at pages 57-69 of the transcript of the hearing on March 21, 2002, adequately support the Court's sentence. The Court further notes that Defendant was sentenced in the standard range. Upon review at this time, the Court finds no reason why the sentence imposed should be disturbed on appeal.

DATE: September 4, 2002

By the Court,

Dudley N. Anderson, Judge

cc: DA  
Ronald Travis, Esq.  
Gary Weber, Esq.  
Hon. Dudley N. Anderson