

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA : NO. 00-10,695

VS. :
SHYNNELL ISAAC WALKER :

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

The Defendant appeals from this Court's Sentencing Order of October 30, 2001. In that Order, the Defendant was sentenced to undergo incarceration in a State Correctional Institution for a minimum of sixteen (16) months and a maximum of sixty (60) months on the charge of Aggravated Assault. Defendant had pled no contest to the charge on December 7, 2000. On February 20, 2001, the date originally set for sentencing, Defendant, through new counsel, filed a Motion for Leave to Withdraw his Plea. Defendant's Motion was Denied by this Court on September 28, 2001, after a finding that the Commonwealth would suffer substantial prejudice from the withdraw of the plea.

On appeal, Defendant first alleges that the Court abused its discretion in refusing to allow him to withdraw his plea. The reasoning in support of this Court's Order denying Defendant's Motion to Withdraw Plea is in the Opinion accompanying the Order of September 28, 2001, and in this Court's Opinion dated July 17, 2001.

Defendant also alleges that the Court failed to abide by the terms of the plea agreement by sentencing the Defendant to a prison term in excess of the plea agreement. The Court disagrees with the Defendant's assertion that the sentence

imposed was in excess of the plea agreement. In the agreement, entered into on December 7, 2000, Defendant agreed to plead guilty to the charge of aggravated assault in exchange for the dismissal of the remaining charges. The colloquy completed by the Defendant lists the offense, the grading of the offense, and the maximum years of confinement and fines associated with the offense.

The colloquy also lists the offense gravity score, the Defendant's prior record score, and the sentencing guideline ranges. Aggravated assault, a felony of the second degree, has an offense gravity score of eight (8). The Defendant has a prior record score of zero (0). Therefore, under the sentencing guidelines, the standard minimum range is nine to sixteen months. The Court therefore rejects Defendant's contention that the sentence imposed of sixteen to sixty months was in excess of the plea agreement.

Date:_____

By The Court,

Nancy L. Butts, Judge

xc: DA
Emmanuel Izuogu, Esquire
Honorable Nancy L. Butts
Judges
Law Clerk
Gary Weber