

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 02-11,286
 :
 vs. : CRIMINAL DIVISION
 :
 JAIMERE PASTERS, :
 Defendant : :

OPINION IN SUPPORT OF ORDER OF JANUARY 14, 2005,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court’s Order of January 14, 2005, which denied his Petition for Post-Conviction Collateral Relief. It had been determined, after a conference at which Defendant was represented by counsel, that Defendant sought relief based on a failure to as of yet be paroled. As such a claim is not cognizable under the PCRA, no hearing was scheduled and the Petition was subsequently denied. In his Statement of Matters Complained of on Appeal, Defendant appears to again complain of his failure to be paroled, and also challenges his sentence.¹

With respect to the failure to as of yet be paroled, as noted above, such a claim lies within the exclusive jurisdiction of the Commonwealth Court and a PCRA petition is not the proper avenue for challenging determinations of the Parole Board. Commonwealth v. Camps, 772 A.2d 70 (Pa. Super. 2001). The Court therefore believes its refusal to grant Defendant relief on this basis was proper.

With respect to his sentence, Defendant contends the Court did not provide adequate reasons for deviating from the sentencing guidelines. Defendant pled guilty to, and was sentenced on, one count of theft, a felony of the third degree. Considering the offense gravity score of 5 and Defendant’s prior record score of 4, the guidelines’ standard range was 9 to 16

1 Defendant does not set forth allegations of trial court error with respect to the denial of his PCRA petition but, rather, couches his issues as though they were being raised for the first time. Although the Court does not believe the sentencing issue was raised in the PCRA petition, and thus was not previously addressed, the Court will give Defendant the benefit of the doubt and address both issues on the merits.

months. Defendant was sentenced to a minimum of 12 months. The statutory maximum was 84 months; Defendant's maximum was 36 months. Thus, the Court did not deviate from the guidelines in sentencing Defendant and, in fact, the sentence was in keeping with his plea agreement which called for a plea to one count of theft, indicated an offense gravity score of five, and agreed to a sentence in the standard range. The Court therefore believes it properly sentenced Defendant and that he has no basis for appeal.

Dated: April 25, 2005

By The Court,

Dudley N. Anderson, Judge

cc: District Attorney
Jaimere Pasters, FD6350, SCI Albion, 10745 Route 18, Albion, PA 16475
Gary L. Weber, Esq.
Hon. Dudley N. Anderson