

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA :

v.

LARRY POTTER

:
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:
:

NO. 04-10,973

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

The Defendant appeals this Court's Sentencing Order dated October 20, 2005. On November 1, 2004, the Defendant pled guilty to one count of Driving Under the Influence of Alcohol and, pursuant to that plea, was sentenced to undergo incarceration in a State Correctional Institution for an indeterminate period of time, the minimum of which being one (1) year and the maximum of which being two (2) years.

The Defendant filed a notice of appeal to the current Sentencing Order on November 4, 2005. On November 7, 2005, this Court requested that the Defendant file a Statement of Matters Complained of on Appeal in accordance with Pa.R.A.P. 1925(b); on November 30, 2005, the Defendant filed said Statement.

In the Statement of Matters Complained of on Appeal, the Defendant asserts that this Court erred when it counted his two previous out-of-state DUI convictions when

calculating his sentence on the instant matter. Relying on this Court's Opinion and Order dated May 16, 2005, the Court rejects the Defendant's assertion.

Dated: _____

By The Court,

Nancy L. Butts, Judge

cc: DA
Joel M. McDermott, Esquire
Nancy L. Butts, Judge
Judges
Law Clerk
Gary L. Weber, Esq.