

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :  
 :  
 vs. : NO. 1303-1995  
 :  
 PAUL BORUCH, :  
 :  
 Defendant : 1925(a) OPINION

Date: April 24, 2007

**OPINION IN SUPPORT OF THE ORDER OF FEBRUARY 2, 2006 IN COMPLIANCE  
WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

Defendant Paul Boruch has appealed this court's sentence of February 2, 2006. The court did not err in revoking Boruch's probation. The court did not abuse its discretion in imposing a sentence of total confinement. Boruch's appeal should be denied and the sentence affirmed.

On February 2, 2006, Boruch made a counseled admission to having violated the terms of his probation. Boruch had absconded from probation supervision by leaving this state and staying in Tennessee for ten months. Following Boruch's admission, this court sentenced him under Count 1 Criminal Trespass, 18 Pa.C.S.A. § 3503(a)(1), to incarceration at a state correctional institution for a minimum of two years and a maximum of four years.

On July 6, 2006, Boruch filed a Motion to Reinstate Appeal Rights *Nunc Pro Tunc*. The court treated the motion as a Post Conviction Relief Act Petition. On October 13, 2006, based upon the Commonwealth not opposing the relief requested by Boruch, the court granted his Post Conviction Relief Act Petition and reinstated his direct appeal rights *nunc pro tunc*.

On October 16, 2006, Boruch filed a notice of appeal. On October 23, 2006, this court issued an order in compliance with Pennsylvania Rules of Appellate Procedure Rule 1925(b) directing Boruch to file a concise statement of matters complained of on appeal within fourteen days of the order. Boruch filed his statement of matters on November 6, 2006. On November 21, 2006, this court issued an opinion in support of the February 2, 2006 sentence in compliance with Pennsylvania Rules of Appellate Procedure Rule 1925(a) addressing the issues Boruch raised in his statement of matters. On March 20, 2007, the Superior Court dismissed Boruch's appeal for his failure to file a brief.

On March 28, 2007, Boruch filed a Motion to Reinstate Appeal Rights *Nunc Pro Tunc*. On the April 9, 2007, a hearing was held on the Motion. At that hearing, defense counsel and the Commonwealth agreed that Boruch's appeal rights should be reinstated. On April 9, 2007, this court entered an order reinstating Boruch's direct appeal rights once again.

On April 11, 2007, Boruch filed a notice of appeal. On April 11, 2007, this court issued an order in compliance with Pennsylvania Rules of Appellate Procedure Rule 1925(b) directing Boruch to file a concise statement of matters complained of on appeal within fourteen days of the order. On April 17, 2007, Boruch filed his statement of matters.

The court has reviewed the statement of matters and the issues raised therein. The statement of matters is identical to the one Boruch filed on November 6, 2006. As such, the court hereby reasserts the November 21, 2006 opinion to address Boruch's issues on appeal, which is attached as Addendum A hereto for the convenience of the Superior Court.

Accordingly, Boruch's appeal should be denied and the sentence of February 2, 2006 affirmed.

BY THE COURT,

William S. Kieser, Judge

cc: Paul J. Petcavage, Esquire  
DA (KO)  
Judges  
Christian Kalas, Esquire  
Gary L. Weber, Esquire (Lycoming Reporter)