

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

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

Date: November 5, 2007

OPINION TO AFFIRM 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.

Defendant initially filed an appeal in this matter on October 16, 2006. In response to that appeal this court issued an opinion under Pa.R.A.P. 1925(a) which was filed November 22, 2006.

On July 26, 2007 counsel for Defendant received notice from the Pennsylvania Superior Court that the Appeal filed on behalf of the Defendant had been dismissed for failure to file a timely Appellant's brief. On September 17, 2007, Defendant's Counsel filed a Motion to Reinstate Defendant's Appeal Rights *Nunc Pro Tunc*. On October 3, 2007, this court issued an order directing that Defendant's direct appeal rights are reinstated and that he shall have 30 days from that date to perfect an appeal of this court's order of February 2, 2006. On October 8, 2007 a renewed Notice of Appeal was filed by Defendant's counsel. On October 10, 2007 this court issued an order pursuant to Rule 1925(b) of the Pennsylvania Rules of Appellate Procedure directing the Defendant file of record in the Lycoming County Prothonotary's Office a concise

statement of the errors complained of on appeal. Defendant's Statement of Matters was filed with this court on October 29, 2007.

As the contents of Defendant's October 29, 2007 Concise Statement of Matters are identical to those raised initially in the Statement filed April 17, 2007, the reasons set forth in this court's original 1925(a) Opinion and Order filed November 22, 2006 and reasserted in a second Order filed April 24, 2007, continue to support this court's opinion affirming the sentence imposed on February 2, 2006.

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
Rebecca Penn, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)