

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

COMMONWEALTH OF PA,	:	
Plaintiff	:	
	:	
v.	:	CR 554-2006
	:	CR 599-2006
	:	
CRAIG MCDANIELS,	:	
Defendant	:	

OPINION
Issued Pursuant to Pa. R.A.P. 1925(a)

The defendant has appealed this court's order of April 5, 2007, sentencing him to one to two years incarceration for Receiving Stolen Property (Misdemeanor 2) and two to four years incarceration for Sale or Transfer of Firearms (Felony 3), with the sentences running consecutively. The defendant avers the court abused its discretion by imposing an excessive probation revocation sentence in light of the underlying technical violations.

Once a defendant's probation has been revoked, a sentence of total confinement may be imposed only if: (1) the defendant has been convicted of another crime, (2) the defendant's conduct indicates that it is likely that he will commit another crime if he is not imprisoned, or (3) such a sentence is essential to vindicate the authority of the court. 42 Pa.C.S.A. §977(c).

The court sentenced the defendant to a period of confinement because such a sentence is required to vindicate the authority of the court. The defendant flouted this court's authority by willfully disobeying the terms of his probation. The defendant traveled to the state of Florida without receiving permission from his probation officer. In fact, James Macke testified that he specifically forbid the defendant not to go to Florida. The court found Mr. Macke to be highly credible.

In addition, the defendant tested positive for marijuana on two occasions, another violation of his probation.

Clearly, the defendant has no regard for county supervision, and feels he may violate the terms of his probation without any consequences. Moreover, he repeatedly lied at the three parole revocation hearings, insisting Mr. Macke gave him permission to travel to Florida when that clearly was not the case.

Upon revocation of a defendant's probation, the court possesses the same sentencing options that were available at the time of the original sentencing. 42 Pa.C.S.A. §977(b). Furthermore, the court is limited only by the maximum sentence it could have imposed originally at the time of the probationary sentence. Commonwealth v. Coolbaugh, 770 A.2d 788 (Pa. Super 2001). The sentencing guidelines do not apply to sentences imposed as a result of probation or parole revocations. Id.

The sentences imposed by this court are well within the statutory limits for each offense. In sentencing the defendant, the court took into consideration the particular facts of this case and found that the defendant is clearly in need of correctional treatment and rehabilitation by a term of imprisonment in a state correctional institution for a lengthy period of time. For these reasons, we imposed the sentence of two to four years for the felony three offense and one to two years for the misdemeanor two offense.

BY THE COURT,

Date:

Richard A. Gray, J.

cc: District Attorney
Janan Tallo, Esq.
Gary Weber, Esq.

