

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

COMMONWEALTH	:	NO. CR-435-2003
	:	
	:	
v.	:	
	:	CRIMINAL LAW
BEVERLY CHILDS	:	

OPINION

This Opinion comes by way of Defendant's Appeal of this Court's Order dated December 9th, 2008. In its Order, the Court accepted Defendant's plea of guilty after having determined that the Defendant understood the plea and its consequences.

As a result of Defendant's open guilty plea, the Court ordered that Defendant pay all costs of prosecution and, as to Count 1, theft by unlawful taking, the Defendant pay a fine in the amount of \$300.00, perform fifty (50) hours of community service, and that the Defendant shall undergo incarceration in the Lycoming County Prison for an indeterminate period of time, the minimum of which shall be fourteen (14) days and the maximum of which shall be twenty-three (23) months. The Court further ordered that as to Count 3, conspiracy to commit theft, that the Defendant be placed under the direction and supervision of the Adult Probation Office of Lycoming County for a period of three (3) years, which shall run consecutive to the sentence for Count 1.

Defendant contends in his Statement of Matters Complained of on Appeal that the sentence imposed by this Court was excessive and an abuse of discretion.

When a Defendant is challenging the discretionary aspects his sentence there is no absolute right to appeal the sentence imposed. 42 Pa.C.S.A. § 9781(b). The Defendant is required to show there is a substantial question that the sentence imposed is not appropriate under the sentencing code. Id. “A bald claim of excessiveness of sentence does not raise substantial question so as to permit review where the sentence is within the statutory limits.” Commonwealth v. Petaccio, 764 A.2d 582, 587 (Pa. Super. Ct. 2000). See also Commonwealth v. Jones, 613 A.2d 587, 593 (Pa. Super. 1992) (en banc). “In order to establish a substantial question, the appellant must show actions by the sentencing court inconsistent with the Sentencing Code or contrary to the fundamental norms underlying the sentencing process.” Commonwealth v. Fiascki, 886 A.2d 261, 263 (Pa. Super. Ct. 2005). The trial court's sentence will stand unless there is a manifest abuse of discretion. To demonstrate an abuse of discretion, “the appellant must establish, by reference to the record, that the sentencing court ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias, or ill will, or arrived at a manifestly unreasonable decision.” Commonwealth v. Perry, 883 A.2d 599, 602 (Pa. Super. Ct. 2005).

In Defendant’s Statement of Matters Complained of on Appeal, she baldly asserts that the Court abused its discretion in imposing sentence. As the Court’s sentence is well within the sentencing guidelines, this bald assertion does not raise a

substantial question regarding the sentence. Therefore the Court finds that Defendant's Appeal should be DENIED.

By the Court,

Judge Richard A. Gray

Cc: Robert Cronin, Esq.
District Attorney
Gary Weber, Esq.