IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :

:

v. : CR-1376-2005

: CRIMINAL DIVISION

CHRISTINE SAIERS,

Defendant :

## **OPINION AND ORDER**

On April 7, 2009, Defendant, Christine Saiers pled no contest to Involuntary

Manslaughter and was sentenced to 18-36 months at the Lycoming County Prison. As the

Defendant had been incarcerated continuously since July 15, 2005, she was awarded credit for
time served for her entire sentence and released. As part of the sentencing Order, the Defendant
was ordered to pay the costs of prosecution. On May 12, 2009, a final bill was issued which
shows the costs of prosecution at \$9,293.45. Defendant asserts that she should not be required to
pay \$8,850.00 of the costs imposed on her because that amount was for the Commonwealth's
expert witness fees for Dr. Timothy Michael who testified for the Commonwealth at the

Defendant's suppression hearing. Judge William S. Kieser originally heard a suppression motion
in this case and ultimately suppressed one of the statements made by the Defendant but never
made a final determination as to whether the remaining statements were made voluntarily. The

Commonwealth appealed the decision and the Pennsylvania Superior Court affirmed. Defendant
believes that she should not have to pay the costs of the expert witness for that hearing as Judge

Kieser suppressed a portion of the statements made by Defendant.

Initially, the Court notes that Defendant has had no income from employment; in the past she has collected Public Assistance due to her significant learning disabilities. Defendant has not yet received her GED. Defendant has no source of income at present; she cannot receive Public Assistance as she is behind on her costs and fines payments. The Defendant asserts she is unable to pay and believes that the Court needs to make a determination on her ability to pay before assessing costs.

After review of the relevant statutes and case law, the Court finds that under

Pennsylvania law, the Court is only required to make a determination of an indigent defendant's ability to make payments before he/she is committed for failure to remit payment. <a href="See">See</a>
<a href="Commonwealth v. Hernandez">Commonwealth v. Hernandez</a>, 917 A.2d 332, 337 (Pa. Super. Ct. 2007). Therefore, the Court will not make a determination as to the Defendant's ability to pay. However at the hearing,

Defense Counsel and the Commonwealth agreed that the Defendant would be entitled to compensation for the time she was incarcerated which was not used in the computation of her sentence. Using an equivalent amount applied by the Magisterial District Justices, who routinely credit Defendants for time spent while incarcerated, it appears that the entire amount of her costs would be eliminated.

**ORDER** 

AND NOW, this \_\_\_\_day of November 2009, based on the foregoing Opinion, it is

ORDERED and DIRECTED that the Defendant's Motion to Determine Costs is hereby

DENIED. Defendant is still responsible for the Expert Witness fees as assessed by the

Prothonotary's Office.

After consideration of Counsel's joint proposal to allow for credit for time served toward

Defendant's fines and costs, it appears that she has served 267 days which were not credited

toward her sentence. Applying the equivalent amount applied by the Magisterial District Justices

for time spent while incarcerated, the end result is that Defendant's credit is equal to her

outstanding costs and fines balance.

Therefore, it is ORDERED and DIRECTED that the Cost Clerks' Office is to credit

Defendant \$9,293.45 to her outstanding balance as credit for time served which was not used in

the computation of her sentence. Defendant's balance shall be zero, and she has satisfied her

financial obligation to Lycoming County.

By the Court,

Nancy L. Butts, Judge

xc:

DA (KO)

PD (NS)

Ed McCoy, Collections Office

Trisha D. Hoover, Esq. (Law Clerk)

Gary L. Weber (LLA)

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