



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. See Commonwealth v. Hernandez, 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)