

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

**COMMONWEALTH**

**v.**

**RONALD SANDER, JR.,  
Defendant**

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**No.: 273-2008  
CRIMINAL DIVISION  
APPEAL**

**OPINION IN SUPPORT OF ORDER IN COMPLIANCE WITH RULE 1925(a)  
OF THE RULES OF APPELLATE PROCEDURE**

The Defendant appeals this Court's Sentencing Order dated April 2, 2009. The Court notes a Notice of Appeal was timely filed on May 1, 2009 and that the Defendant's Concise Statement of Matters Complained of on Appeal was filed on May 21, 2009. Defendant asserts two main issues on appeal: (1) that the sentence was excessive; and (2) that his guilty plea was not voluntary.

***Background***

Sometime in August of 2007, the Defendant asked a thirteen year old (victim) girl to perform oral sex on the Defendant, who was at the time eighteen years old. The victim and the Defendant went under a bridge over West Fourth Street whereupon the victim performed oral sex on him.

On December 16, 2008, the Defendant pled guilty to one count of Corruption of Minors and one count of Unlawful Contact with Minors. The plea agreement was for six (6) years to sixteen (16) years. The Defendant was sentenced before this Court on April 2, 2009 at which time he received an aggregate sentence of six (6) years to sixteen (16) years in a State Correctional Institution.

*Discussion*

*The guilty plea was not voluntary*

Defendant contends that his guilty plea was not voluntary in that he was threatened and coerced to plea by his Juvenile Probation Officer and Detective Weber of the Lycoming County District Attorney's Office.

Under Pennsylvania Law, a guilty plea is not "deemed invalid if the circumstances surrounding the entry of the plea reveal that the defendant fully understood the nature and consequences of his or her plea and that he or she knowingly and voluntarily decided to plead guilty." Commonwealth v. Blackwell, 647 A.2d 915, 922 (Pa. Super. Ct. 1994). The Court must look to the guilty plea colloquy to determine if the plea was entered into knowingly and voluntarily. Id.

Defendant pled guilty to Corruption of Minors and Unlawful Contact with Minors. After reviewing the guilty plea colloquy and the transcript from the guilty plea hearing, the Court finds that the Defendant's guilty plea was not unlawfully induced. At the guilty plea hearing, the Defendant was examined extensively under oath. Some of the testimony referred to occurred as follows:

COURT: Sir, how do you wish to plead to the corruption of minors and the unlawful contact with a minor?

DEFENDANT: Guilty.

...

COURT: So did you read through this guilty plea form yourself?

DEFENDANT: Yes, I did.

COURT: You read through all the questions?

DEFENDANT: Yes.

...

COURT: So you filled it out. So you read through the questions. Did you understand as you were filling out this form that this form is going over all the rights, everything that you're giving up and also highlighting the sections that you're not giving up by pleading guilty here today?

DEFENDANT: Yes.

COURT: And when you went through the form if you didn't understand a question or you weren't sure of the kind of answer that the question was asking you for did you have the opportunity to go over it with Ms. Buzas for someone from the Public Defender's Office?

DEFENDANT: Yes.

...

COURT: Anybody forcing you or threatening you in any way to get you to plead guilty here today?

DEFENDANT: No.

COURT: Are you doing this of your own freewill?

DEFENDANT: Yes.

COURT: Are you sure?

DEFENDANT: Yes.

COURT: Whose ultimate decision is it to plead guilty here today?

DEFENDANT: Mine.

...

COURT: I'm looking at the colloquy as I'm talking to you it looks like Mr. Miele's handwriting [is] on this as well. Mr. Miele has been involved with this case?

DEFENDANT: Yes.

COURT: Talked to you about the issues? . . . [Y]ou actually had more than one attorney be involved in your case?

DEFENDANT: yes.

COURT: You had an opportunity to talk to everybody and have determined that this is what you want to do is plead guilty to these charges?

DEFENDANT: Yes.

N.T. 12/16/08 pgs. 4-7, 14-5.

Further, the guilty plea colloquy signed by the Defendant asked:

34. Has anybody made any promises to you [other than those in the plea agreement], threatened you in any manner or done or said anything that would force you or put pressure on you to plead guilty?

Defendant wrote “No.” Next the colloquy asked:

35. Is your plea of guilty being given freely and voluntarily without any force, threats, pressure or intimidation?

Defendant wrote “Yes.” Lastly, the colloquy asked:

36. Has your attorney fully explained to you the meaning of all the terms of this document?

Defendant wrote “Yes.”

Based upon his written replies to the guilty plea colloquy, there is no indication that Defendant was in any way coerced or induced to enter his plea or that his plea was anything other than knowing and voluntary. The Defendant’s allegations that his Juvenile Probation Officer and Detective Weber induced him to plead appear to be unfounded by the Defendant’s responses to the Court that no one was forcing or threatening him to plead. Furthermore, from his replies at the guilty plea hearing, Defendant understood the nature of the charges against him, the significance of pleading guilty, the rights he was giving up, and the range of the sentence,

including any mandatory time, which the Court could impose. See Commonwealth v. Williams, 275 A.2d 103, 104-05. Also, at the time of sentencing the Court discussed the fact that this was a significant period of time for someone as young as the Defendant. N.T. 4/2/09 pg. 5. The Court felt that in light of the facts of this case, the plea agreement was appropriate. Id. Defense Counsel also stated at sentencing that “before actually standing up here I spoke with Mr. Sander and he seemed as though he was cognizant, knew what was going to happen today. He was well versed on what to expect. I too believe that it’s a knowing plea.” Id. at 6. As Defendant’s guilty plea was not unlawfully induced, Defendant’s argument is without merit.

***The Defendant’s sentence was excessive***

Defendant contends in his Statement of Matters Complained of on Appeal that his sentence was excessive in light of his criminal history and the facts of the case.

When a Defendant is challenging the discretionary aspects of 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).

The Court did not abuse its discretion and the sentence was not excessive. The Defendant pled guilty on April 2, 2009, to one count of Corruption of Minors and one count of Unlawful Contact with Minors. The statutory maximum for Unlawful Contact with Minors is 40 years and the maximum for Corruption of Minors is 10 years. In fact, the Defendant received a sentence of six (6) years to sixteen (16) years in state prison, which does not exceed 50 years. While no mandatories applied to this offense and the sentence is above that of the standard range, the Defendant was sentenced according to the plea agreement, which he entered into voluntarily. Therefore, the Court did not abuse its discretion in imposing sentence. As the Defendant sets forth no specific claim as to how the Court has abused its discretion, his claim has no merit.

***Conclusion***

As none of the Defendant’s contentions appear to have merit, it is respectfully suggested that the Defendant’s sentence be affirmed.

By the Court,

Dated: \_\_\_\_\_

Nancy L. Butts, Judge

xc: DA (HM)  
PD (SL)  
Trisha D. Hoover, Esq. (Law Clerk)  
Gary L. Weber, Esq. (LLA)