

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 313 - 2008
: vs. :
: :
MICHAEL L. SMITH, :
Defendant :

OPINION IN SUPPORT OF ORDER OF NOVEMBER 17, 2009,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court’s Order of November 17, 2009, which sentenced him on two counts of possession of drug paraphernalia, to an aggregate term of six to twenty-four months (less one day) incarceration, and on one count of possession of a controlled substance (marijuana) to pay a fine of \$500, following his conviction of those counts by a jury on August 20 and 21, 2009. In his Concise Statement of Matters Complained of on Appeal, Defendant contends the Court erred in denying his motion to suppress and also complains that his sentence is manifestly excessive and unduly harsh.

The suppression issue was addressed by the Honorable Nancy L. Butts in her Opinion dated February 23, 2009, and the Court will simply rely on that opinion for purposes of the instant appeal.

With respect to Defendant’s claim that the sentence is excessive, inasmuch as such is within the statutory limits the Court feels it was within its discretion to impose such a sentence.¹ Further, the reasons for the Court’s sentence may be found at page 10 of the transcript of the sentencing hearing. N.T. November 17, 2009, at p. 10.

Dated: January 22, 2010

Respectfully Submitted,

Dudley N. Anderson, Judge

cc: DA
Nicole Spring, Esq.
Gary L. Weber, Esq.
Hon. Dudley Anderson

1 *See* Commonwealth v. Gallagher, 442 A.2d 820 (Pa. Super. 1982)(because the sentence imposed was within the statutorily prescribed limits, the Court would not disturb the sentence as unduly harsh or manifestly excessive).