

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-2067-2009
vs. :
ARTHUR WILLIAM REED, : Order Denying Application for Early Parole
Defendant : and/or to Modify/Reduce Sentence Nunc Pro
: Tunc

OPINION AND ORDER

AND NOW, this ___ day of May 2011, the Court DENIES the Defendant's "Application for Early Parole and/or to Modify/Reduce Sentence Nunc Pro Tunc" filed on May 3, 2011.

The Court notes that on or about February 16, 2010, it sentenced the Defendant to undergo incarceration in a state correctional institution for 24 to 48 months for driving under the influence with the highest rate of alcohol. The Court sentenced in the aggravated range, because the Defendant was on supervision at the time of this incident and this was the Defendant's seventh DUI in the last 10 years and tenth DUI overall.

The Pennsylvania Board of Probation and Parole has the exclusive authority to determine parole when an offender is sentenced to a maximum term of imprisonment of two years or more. 61 Pa. C.S.A. §6132; Commonwealth v. Mears, 972 A.2d 1210, 1212 (Pa.Super. 2010); Commonwealth v. Camps, 772 A.2d 70, 74 (Pa. Super. 2001). Therefore, this Court does not have jurisdiction or the power to grant early parole to the Defendant.

The Court also does not have jurisdiction to modify or reduce the Defendant's sentence. A motion to modify sentence must be filed no later than 10 days after the imposition of sentence. See Pa.R.Cr.P. 720(A). The Defendant's application was filed more

than 14 months after sentence was imposed. Furthermore, with the exception of obvious clerical errors or a patently illegal sentence, the Court loses jurisdiction to modify or change a sentence after 30 days. See 42 Pa.C.S.A. §5505; Commonwealth v. Holmes, 593 Pa. 601, 933 A.2d 57 (Pa. 2007); Commonwealth v. Borrin, 12 A.3d 466 (Pa. Super. 2011).

Defendant has not asserted a patent or obvious error.

Instead, Defendant is asking the court to reconsider its decision based on changes that have occurred in his life and programs he has completed since the date of sentencing. Defendant is applauded for his efforts, but there is no doubt in the Court's opinion that its prior sentence was appropriate and warranted considering all of the relevant sentencing factors. Defendant's present incarceration is a direct result of his choices to continue drinking, driving and endangering the innocent. Hopefully, Defendant's choices while incarcerated will assist him to be more law abiding once he completes his sentence.

By The Court,

Marc F. Lovecchio, Judge

cc: District Attorney
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Work file