

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

**COMMONWEALTH**

:

: **No. CR-561-2010**

**vs.**

:

:

**LAUREN TENNIS,**

:

**Defendant**

: **Motion to Modify Sentence**

**OPINION AND ORDER**

Before the Court is Defendant's Post Sentence Motion for Modification.

By way of brief background, on January 1, 2012, Defendant pled no contest to Count 2 of the Information, Possession with Intent to Deliver Cocaine. On November 27, 2012, the Court sentenced Defendant to five (5) years of intermediate punishment with the first six (6) months to be served at the Lycoming County Prerelease Center. Defendant filed a Post-Sentence Motion to Modify the Sentence on December 5, 2012.

Defendant's Motion to Modify the Sentence is based on Defendant's alleged significant history of mental illness of which defense counsel was not aware at the time of the sentence and of which the Court was not made aware in connection with imposing the sentence.

The Court must consider the nature and circumstances of the offense, the history and characteristics of the Defendant, and the rehabilitative needs of the Defendant, among other factors, in determining an appropriate sentence. 42 Pa. C.S. § 9721 (b); 42 Pa. C.S.A. § 9781 (d); see also Commonwealth v. Walls, 592 Pa. 557, 926 A.2d 957, 962-63 (2007).

Certainly, to the extent the Defendant suffered from a mental illness, the magnitude or nature of which was not disclosed to the Court at sentencing, it would constitute a factor that should have been considered in determining an appropriate sentence. Moreover, at

Defendant's sentencing, the primary inquiry from the Court focused on Defendant's culpability and the reasons, if any, why she would have engaged in such activity or at the very least, assisted the father of her children in his drug trade by permitting him to utilize her residence.

During the hearing on the Motion to Modify, Deputy Kathie Sheets of the Lycoming County Sheriff's Department testified that following Defendant's sentence, Deputy Sheets was required to transport the Defendant to Divine Providence Hospital for a mental health assessment. Deputy Sheets described the Defendant as suffering from an "extreme meltdown." It was evident to Deputy Sheets that the Defendant was suffering from significant emotional or mental health issues which required medical attention.

Defendant also testified at the hearing. She claims to suffer from depression, anxiety and Bipolar Disorder. She has been prescribed medication in the past including Prozac, Trazodone, Lamictal and Ambien. She has been hospitalized at least four times in the past for mental health issues including prior suicide attempts.

Following the hearing and despite an argument to the contrary by the Commonwealth, the Court was inclined to grant the Motion to reconsider and to amend the sentence. It was agreed between the parties, however, that the Court would request an assessment of Defendant by Dr. Terri Calvert, a psychiatrist employed by Lycoming County Prison, in order to determine Defendant's mental health status. It was agreed that after receipt of Dr. Calvert's progress notes, the Court would enter an Order either denying the Motion or granting the Motion and imposing a different sentence.

On December 17, 2012, the Court received Dr. Calvert's progress notes. Dr. Calvert met with Defendant on December 10, 2012. Dr. Calvert took a psychological history of

Defendant during which Defendant reiterated what she testified to at the reconsideration hearing. Dr. Calvert's assessment concludes that Defendant suffers from depression, borderline traits and perhaps a personality disorder. Dr. Calvert also notes, however, that Defendant was "exaggerating [her] depressed mood for whatever reason" and that Defendant had somewhat of a "dramatic style of relating."

Dr. Calvert increased Defendant's depression medication and scheduled a follow-up in three months.

While the Court may have been inclined to modify Defendant's sentence following the hearing, the Court will decline to do so after review of Dr. Calvert's assessment.

Defendant's decisions resulting in her criminal behavior cannot be excused or mitigated because of her depression. Moreover, it appears to the Court that Defendant is exaggerating her symptoms in order to garner sympathy. Indeed, the Court questions whether Defendant's "borderline traits" and possible "personality disorder" are manifesting themselves solely as an attempt to manipulate the Court for the purpose of modifying the sentence.

Under all of the circumstances, the Court remains of the opinion that the sentence was appropriate and will deny Defendant's Motion to Modify.

### **ORDER**

AND NOW, this \_\_\_\_ day of December 2012, following a hearing and argument, the Court **DENIES** Defendant's Motion for Modification of Sentence.

BY THE COURT,

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Marc F. Lovecchio, Judge

cc: DA  
Julian Allatt, Esquire  
Gary Weber, Esquire (Lycoming Reporter)  
Work File