

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,	:	
	:	DOCKET NO. 870-2011
vs.	:	CRIMINAL DIVISION
	:	
LOUISE YOUNG,	:	POST-SENTENCE
Defendant	:	MOTION

OPINION AND ORDER

AND NOW, this 11th day of June, 2012, following oral argument on Defendant's Post-Sentence Motion, it is hereby ORDERED and DIRECTED that the motion is DENIED.

I. Procedural Background

On June 11, 2011, Defendant was charged with Criminal Trespass, Criminal Mischief, and Public Drunkenness, pursuant to 18 Pa. C.S. §§ 3503(a)(1)(ii), 3304(a)(5), and 5505, respectively. *See* Information. On January 24, 2012, after a non-jury trial, this Court found Defendant guilty of all charges. On April 16, 2012, this Court sentenced Defendant. As to the charge of Criminal Trespass, Defendant received a sentence of twenty-four (24) to forty-eight (48) months incarceration in the State Correctional Institution. This Court specifically found Defendant to be RRRI eligible and computed her minimum sentence as eighteen (18) months. As to the remaining charges, Defendant received consecutive fines.

On April 20, 2012, Defendant filed her Post-Sentence Motion. In this motion, Defendant filed included a motion in arrest of judgment and a motion to modify sentence. In these motions, Defendant alleges that the Court's guilty verdict as to the Criminal Trespass charge was against the weight of the evidence and that the Court's sentence of incarceration, relating to that charge, was excessive. On May 21, 2012, this Court heard oral argument on this motion.

III. Discussion

This Court finds that the guilty verdict in this case was not against the weight of the evidence. The trier of fact determines the sufficiency of evidence presented during trial. *Commonwealth v. Solano*, 906 A.2d 1180, 1186 (Pa. 2006); *Commonwealth v. Chapney*, 832 A.2d 403, 408 (Pa. 2003). Our Supreme Court has long held that “[t]he question of the weight of the evidence is one reserved exclusively for the tier of fact who is free to believe all, part, or none of the evidence and free to determine the credibility of witnesses.” *Id.* In this instance, this Court held a non-jury trial in the above-captioned matter. After hearing testimony from the victim (Mr. Chilentis), the arresting officer (Officer Dockey), and Defendant, this Court found Officer Dockey’s testimony to be credible. Specifically, this Court found that the officer’s testimony about Defendant’s actions leading up to her arrest confirm that Defendant had no reasonable belief that she had the right to occupy her prior apartment. This credibility determination stands upon further review of this Court.

Additionally, this Court finds that the sentence imposed in this case was not excessive. In *Commonwealth v. Rodda*, 723 A.2d 212 (Pa. Super. Ct. 1999)(en banc), our Superior Court held:

[s]entencing is a matter vested in the sound discretion of the sentencing judge, and a sentence will not be disturbed on appeal absent a manifest abuse of discretion. In this context, an abuse of discretion is not shown merely by an error in judgment. Rather, 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.

Id. at 214 (citations omitted)(cited by *Commonwealth v. Coulverson*, 34 A.3d 135, 143 (Pa. Super. Ct. 2011)). Additionally, the Superior Court held in *Commonwealth v. Fullin*, 892 A.2d 843 (Pa. Super. Ct. 2006), that:

[w]hen imposing a sentence, the sentencing court must consider the factors set out in 42 Pa.C.S.A. § 9721(b), that is, the protection of the public, gravity of offense in relation to impact on victim and community, and rehabilitative needs of the defendant.... And, of course, the court must consider the sentencing guidelines.

Id. at 847-48 (citations omitted).

In this instance, the Court imposed a sentence within the guidelines. As to the charge of criminal trespass, the Court imposed a sentence of twenty-four (24) to forty-eight (48) months in a State Correctional Institution. The guidelines recommend a sentence of twenty-one (21) months to thirty (30) months. Thus, the sentence imposed by the Court is well within the guideline range. Also, the Court found Defendant RRRI eligible, lowering her minimum sentence to eighteen (18) months of incarceration. Additionally, this Court believes that a risk exists that Defendant may reoffend. In considering its sentence, the Court considered the Defendant's long history of criminal activity. Sentencing Order, 2. Also, Defendant did not show any sign of remorse for her actions. *Id.* This Court noted these concerns in Defendant's sentencing order dated April 16, 2012. Therefore, this Court does not believe that it imposed an excessive sentence on Defendant because the Court's sentence falls within the standard range and Defendant risks reoffending.

IV. Conclusion

Based upon the foregoing, this Court finds no reason upon which to grant Defendant's Post-Sentence Motion. Pursuant to Pennsylvania Rule of Criminal Procedure 720(B)(4), Defendant is hereby notified of the following: (a) the right to appeal this order within thirty (30) days of its date to the Pennsylvania Superior Court; "(b) the right to assistance of counsel in preparation of the appeal; (c) the rights, if...indigent, to appeal *in forma pauperis* and to proceed with assigned counsel as provided in Rule 122; and (d) the qualified right to bail under Rule 521(B)." Pa. R. Crim. P. 720(B)(4).

ORDER

AND NOW, this 11th day of June, 2012, it is ORDERED and DIRECTED that Defendant's Post-Sentence Motion is hereby DENIED based upon the reasons stated above.

BY THE COURT,

Date

Richard A. Gray, J.

RAG/abn

cc: DA (Martin Wade, Esquire)
PD (William J. Miele, Esquire)
Louise Young, OS-8570
SCI Muncy, P.O. Box 180, Muncy, PA 17756