

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	:	NO. CR – 1410 – 2011
	:	
vs.	:	CRIMINAL DIVISION
	:	
HAKIM HANDY,	:	
Defendant	:	Motion for Reconsideration

OPINION AND ORDER

Before the Court is the Commonwealth’s Motion for Reconsideration of Sentence, filed October 19, 2012. Argument thereon was heard November 1, 2012.

On October 10, 2012, the court sentenced Defendant in accordance with a plea agreement to an aggregate period of incarceration of 18 to 72 months. Defendant was made eligible for boot camp and was also determined to be RRRI eligible. The RRRI eligibility reduced the 18 months to 13 months 15 days. In the instant motion, the Commonwealth contends Defendant is not RRRI eligible based on two juvenile adjudications of delinquency for aggravated assault in 1996. The Commonwealth also argues that successful completion of the boot camp program would allow Defendant to be released after six months and that by providing for such eligibility, the court has in effect refused to impose the negotiated sentence.

With respect to Defendant’s RRRI eligibility, the court finds the Commonwealth to be correct. The prior adjudications for aggravated assault, which are included as “personal injury crimes” under the Crime Victim’s Act, 18 P.S. Section 11.103, disqualify Defendant from RRRI eligibility. 61 Pa.C.S. Section 4503 (definition of “eligible offender”, subsection (3)). This portion of the sentence will therefore be modified.

As for the boot camp program, the court disagrees with the Commonwealth’s position that by providing for boot camp eligibility the court has ignored the plea agreement for an 18 month sentence. The Commonwealth was free to include Defendant’s NON-eligibility for boot camp in the terms of the agreement but did not do so. As the agreement is silent, the court exercised its discretion to allow for that program. By statute, this court was duty-bound to identify whether Defendant was eligible for participation and given the discretion to exclude

him if it was found that he was inappropriate for the program. 61 Pa.C.S. Section 3904(b). Nothing was presented that led the court to so conclude.

If Defendant successfully completes that program, the purpose of such will have been served, and the 18 month sentence will not be necessary. That the legislature allows for the early release based on successful completion indicates to the court that body's opinion that the length of the incarceration is not critical under those circumstances. This court is simply allowing Defendant the opportunity to participate in what the legislature has determined is an appropriate alternative to lengthy incarceration. *See* 61 Pa.C.S. Section 3902, Declaration of Policy.

Accordingly, for the foregoing reasons, the court will enter the following:

ORDER

AND NOW, this 2nd day of November 2012, for the foregoing reasons, the sentence imposed by this court on October 10, 2012, is hereby modified to eliminate Defendant's RRRI eligibility. Therefore, the minimum sentence is NOT reduced from 18 months. In all other respects, the Order of October 10, 2012, is hereby affirmed.

BY THE COURT,

Dudley N. Anderson, Judge

cc: DA
Peter Campana, Esq.
APO
PA Board of Probation and Parole
Warden (2)
SCI – Camp Hill
Sheriff
Victim Witness Coordinator (DA's office)
Gary Weber, Esq.
Hon. Dudley Anderson