

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, : CR-1901-2012; OTN T2512532  
: :  
vs. : CRIMINAL LAW DIVISION  
: :  
EUGENE HARRIS. : 232 MDA 2013

**OPINION AND ORDER**  
**Issued Pursuant to Pennsylvania Rule of Appellate Procedure 1925(a)**

By criminal information filed October 29, 2012, the Commonwealth charged Defendant with Escape, a felony of the third degree, pursuant to 18 Pa. C.S. § 5121. In this information, the Commonwealth alleged Defendant walked away from a work crew under the supervision of the Lycoming County Prison Pre-release Center. On January 4, 2013, Defendant pleaded guilty to Escape; also on that date, the Court sentenced Defendant to serve a term of incarceration in a state correctional institution, with the minimum time being twelve (12) months and the maximum time being thirty (30) months, for this charge. The Court deemed Defendant RRR eligible, thus lowering his minimum sentence to nine (9) months. On January 11, 2013, Defendant filed a Motion to Reconsider Sentence. In this motion, Defendant alleged that his sentence is harsh and excessive. On January 23, 2013, the Court denied Defendant's motion.

On February 1, 2013, Defendant filed a Notice of Appeal with regard to the Court's January 4, 2013 sentencing order. On February 22, 2013, Defendant filed his Concise Statement of Matters Complained of on Appeal. This statement mirrors Defendant's motion for reconsideration of sentence. In his statement, Defendant alleged that his sentence is harsh and excessive in light of the circumstances surrounding his escape. Specifically, Defendant's brother had passed and his mother was sick immediately prior to his escape. Also, Defendant alleged that he told workers at the Pre-release Center that he felt like fleeing, but that this statement was

ignored. Defendant argues that these considerations demand a lighter sentence than that imposed by the Court.

Instantly, the Court requests that its sentencing order of January 4, 2013, be affirmed. On January 4, 2013, Defendant pleaded guilty to escape, a felony of the third degree. At the sentencing hearing, the parties agreed that Defendant's prior record score was a three (3) and that the offense gravity score was a five (5); therefore, based upon the standard guidelines, the standard range for sentencing was six (6) to sixteen (16) months. The Court sentenced Defendant to a term of incarceration of twelve (12) to thirty (30) months. The Court also deemed Defendant RRRI eligible, lowering his minimum to nine (9) months. This sentence is well within the standard range and should be upheld.

Defendant asserts that his sentence is excessive and unreasonable in light of the circumstances surrounding his escape. The Court does not agree. It has long been held that sentencing is within the discretion of the sentencing judge and will not be disturbed absent an abuse of discretion. *See Commonwealth v. Rodda*, 723 A.2d 212, 214 (Pa. Super. Ct. 1999)(en banc). In *Rodda*, our Superior Court held:

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, in *Commonwealth v. Fullin*, 892 A.2d 843 (Pa. Super. Ct. 2006), our Superior Court held 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 sentenced Defendant within the standard range. Additionally, Defendant does not allege that the Court ignored or misapplied the law, or that it held ill will against Defendant; Defendant merely alleges that the sentence was excessive based upon his familial situation at the time of the escape. The Court believes it appropriately considered the issues raised by Defendant when calculating his sentence. Also, the Court notes that the apprehension of Defendant involved various law enforcement units. Therefore, in light of the sentence being within the standard range and in light of the prevailing case law stating that sentencing is within the trial court's discretion, the Court respectfully requests its January 4, 2013 sentencing order be affirmed.

BY THE COURT,

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Richard A. Gray, J.

cc: DA  
PD (Kathryn E. Bellfy, Esq.)  
LCR (Gary L. Weber, Esq.)