

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-864-2012  
vs. :  
 : CRIMINAL DIVISION  
 :  
 :  
 DANIELLE N. WILSON, :  
 Appellant : 1925(a) Opinion

**OPINION IN SUPPORT OF ORDER IN  
COMPLIANCE WITH RULE 1925(a) OF  
THE RULES OF APPELLATE PROCEDURE**

This opinion is written in support of this court's judgment of sentence dated March 26, 2015, following revocation of Appellant's previous sentence on the Intermediate Punishment program.

On October 9, 2012, Appellant was sentenced to three years on the intermediate punishment program for forgery, a felony of the third degree.

On April 11, 2013, a bench warrant was issued because Appellant absconded from supervision. Appellant was incarcerated on or about April 29, 2013. Following a violation hearing on May 9, 2013, Appellant received a 60-day sanction.

On August 23, 2013, another bench warrant was issued because Appellant again absconded from supervision. Following a violation hearing on November 14, 2013, Appellant's original intermediate punishment sentence was revoked and she was re-sentenced to 24 months on the intermediate punishment program with the first 7 months to be served at the Lycoming County Pre-Release/Work Release Center (PRC). Appellant received credit from November 3, 2013 to November 13, 2013 and from April 29, 2013 to

June 29, 2013 toward her 7 months at PRC. Appellant was released from the PRC on or about April 29, 2014.

On October 13, 2014, a bench warrant was issued because Appellant absconded from supervision for a third time. She was apprehended on or about March 12, 2015. Following a violation hearing on March 26, 2015, the court revoked Appellant's intermediate punishment and resented Appellant to 10 months on the intermediate punishment program, with all 10 months to be served at the PRC.

Appellant filed a motion to reconsider sentence in which she asserted her sentence was excessively harsh in that she never incurred new charges. Instead, she alleged that the adult probation officer's recommendation of a six-month max out sentence was appropriate. The court summarily denied Appellant's motion on April 7, 2015.

Appellant filed a notice of appeal nunc pro tunc on April 29, 2015.

Appellant contends that her sentence is excessive. The court cannot agree.

"Sentencing 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."

*Commonwealth v. Bricker*, 41 A.3d 872, 875 (Pa. Super. 2012), quoting *Commonwealth v. Cunningham*, 805 A.2d 566, 575 (Pa. Super. 2002). "[A]n abuse of discretion is more than a mere error of judgment; thus, a sentencing court will not have abused its discretion unless 'the record discloses that the judgment exercised was manifestly unreasonable or the result of partiality, prejudice, bias or ill-will.'" *Commonwealth v. Walls*, 592 Pa. 557, 926 A.2d 957, 961 (2007), quoting *Commonwealth v. Smith*, 543 Pa. 566, 673 A.2d 893, 895 (1996).

In determining whether a sentence is manifestly excessive, the appellate court must give great weight to the sentencing court's discretion, as he or she is in the best position to measure factors such as the nature of

the crime, the defendant's character, and the defendant's display of remorse, defiance, or indifference.

*Commonwealth v. Colon*, 102 A.3d 1033, 1043 (Pa. Super. 2014), quoting *Commonwealth v. Mouzon*, 828 A.2d 1126, 1128 (Pa. Super. 2003).

Appellant and four other individuals found two credit cards and conspired to use these cards at various stores in the Lycoming Mall, making approximately \$4500 in purchases. Appellant was charged with forgery, conspiracy to commit forgery, theft by deception, receiving stolen property, and access device fraud. Appellant pled guilty to forgery, a felony of the third degree. At sentencing, the remaining charges were dismissed. She was originally sentenced to three years of supervision in the intermediate punishment program. Unfortunately, she absconded from supervision three times. The first time she received a sixty-day sanction. The second time she was ordered to serve the first seven months of a new intermediate punishment sentence at PRC.

When Appellant appeared before the court on her third violation, her attorney argued for a 2 to 4 month max-out sentence. He also noted that Appellant completed her GED, a parenting class and an internship while under supervision and she had been trying to find employment. N.T., at 3-4. Appellant added that she "couldn't get stable." She claimed that she wasn't reporting to probation because she didn't have an address and was afraid of being locked up and being unable to find an address once she was in jail. N.T., at 4-6. Her supervising officer was recommending a 3 to 6 month max-out.

The court considered Appellant's statements, her attorney's arguments, and the recommendation of Appellant's supervising officer; however, it did not make sense to give a lesser sentence for Appellant's third violation than she received on her second

violation. The court could have imposed up to seven years for Appellant's forgery conviction. Such a lengthy sentence was neither necessary nor appropriate. A ten-month intermediate punishment sentence to be served at the PRC in its entirety increased the sanction for Appellant's third violation and put a roof over her head, but it also would allow Appellant to pursue employment. Appellant no longer needs to worry about finding a residence in order to be released from PRC or comply with supervision. Once she serves ten months at PRC, her sentence will be finished.

DATE: \_\_\_\_\_

By The Court,

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Marc F. Lovecchio, Judge

cc: District Attorney  
Joshua Bower, Esquire (APD)  
Work file  
Gary Weber, Esquire (Lycoming Reporter)  
Superior Court (original & 1)