

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH :
 :
 vs. : No. CR-1389-2016
 :
 TYESHIA REDDING, : Defendant's Motion to Enforce
 Defendant : Plea Agreement

OPINION AND ORDER

By way of background, by Criminal Complaint filed on July 6, 2016, Defendant was charged with numerous conspiracies to commit violations of the Controlled Substances Act. Upon the filing of the Criminal Complaint, an arrest warrant was issued and Defendant was taken into custody on July 7, 2016.

The arresting officer was Detective Keifer Bathgate of the Lycoming County District Attorney's Office.

Defendant remained incarcerated in lieu of bail until August 17, 2016 when she was released on unsecured intensive supervised bail.

Prior to being released, the defendant was escorted from the Lycoming County Prison to the Lycoming County Courthouse where she met with the Assistant District Attorney assigned to the case, Melissa Kalaus, Detective Bathgate and Defendant's lawyer. During this meeting, Attorney Kalaus and Detective Bathgate discussed with Defendant her cooperating by agreeing to testify against her alleged coconspirator Andre Franklin. Defendant was at first very emotional and resistant to cooperating. During the meeting, however, Attorney Kalaus promised the defendant that if she cooperated by providing information against Mr. Franklin and agreed to testify against him if needed, the

Commonwealth would recommend a “county sentence with mental health court.”

Given the offer, Defendant agreed. Detective Bathgate subsequently recorded an interview with the defendant where she “told him everything” including extensive information implicating Mr. Franklin.

Defendant had previously filed a Motion for Bail Reduction on August 15, 2016 and a hearing was scheduled for August 29, 2016. As a result of the cooperation agreement, however, Defendant was released on bail as previously noted, on August 17, 2016 and Defendant subsequently withdrew her petition for bail reduction by a praecipe filed on August 26, 2016.

As a result of the cooperation agreement, Defendant waived her arraignment scheduled for August 22, 2016 and scheduled a guilty plea for October 14, 2016.

Subsequently, for a period of close to two years, the defendant remained ready, willing and able to testify against Mr. Franklin pursuant to her agreement. She was scheduled to plead on numerous occasions but her plea hearings were continued because Mr. Franklin’s case had not yet been disposed of. As Mr. Franklin’s case was placed on the trial list, Defendant would be subpoenaed by the District Attorney’s office to testify by was never called. Eventually, Mr. Franklin pled guilty and the defendant was informed by the Commonwealth that her testimony was no longer needed.

By way of specific background, Defendant’s October 14, 2016 guilty plea was continued because Defendant was “a cooperating witness.” While no specific offer was made as to time, it was agreed that the cap on Defendant’s sentence would be a county sentence

with a mental health court component. The October 10, 2016 continuance request specifically noted that the mental health court application “is being completed.”

Defendant’s January 20, 2017 guilty plea hearing was continued again because Defendant was “cooperating.” The continuance request which was not opposed by the Commonwealth also indicated that the “future plea deal” was dependent upon Defendant testifying against her co-defendant who had not yet been brought to trial.

Defendant’s April 28, 2017 guilty plea hearing was again continued because of “Defendant’s continued cooperation.” As with the other continuance requests, this request was not opposed by the Commonwealth.

Defendant’s July 14, 2017 guilty plea hearing was continued without opposition by the Commonwealth because of “Defendant’s cooperation”.

Defendant’s October 6, 2017 guilty plea hearing was again continued without opposition by the Commonwealth because of Defendant “cooperating.” Consistent with the prior continuance requests, it was noted that the future plea deal was dependent upon the defendant testifying against her co-defendant.

Defendant’s January 5, 2018 guilty plea hearing was again continued without opposition of the Commonwealth, because a final offer could not be made until “completion of cooperation by Defendant.”

Defendant’s April 20, 2018 guilty plea hearing was continued without opposition by the Commonwealth because Defendant was “still negotiating a deal which is contingent upon co-defendant’s matter.”

On July 11, 2018, the defendant was before the Court for a guilty plea. At that time, the parties disputed whether the Commonwealth was bound by the plea agreement. The Court directed that if the disagreement continued, Defendant would need to file a Motion to Enforce the Plea Agreement.

Said Motion was filed on July 13, 2018 and the Court took testimony on September 18, 2018. The testimony is reflected as set forth above. Detective Bathgate testified on behalf of the defendant as did the defendant. The Court also took judicial notice of the documents filed in the court file which included the continuance request forms and emails regarding the agreement. The Commonwealth did not call Attorney Kalas as a witness.

The Court finds that the Commonwealth made a specific offer to the defendant that if she provided information against Mr. Franklin and testified if needed, the Commonwealth would recommend a county sentence. The exact parameters of the county sentence were not discussed although mental health court was a possibility. Mental Health Court could not be a certainty because an application would need to be submitted. The defendant accepted the offer of the Commonwealth and gave truthful information incriminating Mr. Franklin. The defendant was ready, willing and able to cooperate against Mr. Franklin by testifying against him. The Commonwealth eventually secured a guilty plea by Mr. Franklin in part due to Defendant's willingness to testify against Mr. Franklin.

As is well known, the disposition of criminal charges by an agreement between the parties is an essential component of the criminal justice system. *Commonwealth*

v. Schmoyer, 280 Pa. Super. 406, 421 A.2d 786, 789 (1980).

When “a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled.” *Commonwealth v. Mebane*, - Pa. Super. -, 58 A.3d 1243, 1247 (2012), citing *Santobello v. New York*, 404 U.S. 257, 262-63, 92 S. Ct. 495 (1971).

Under the circumstances of this case, fundamental fairness and the interests of justice compel the enforcement of the terms of the plea agreement. A promise made by a prosecutor and relied upon by a defendant to that defendant’s detriment must be fulfilled. See *Mebane, Id.*

ORDER

AND NOW, this 25th day of September 2018, the court **GRANTS** Defendant’s Motion to Enforce Plea Agreement. Defendant’s Guilty Plea is scheduled for **October 26, 2018 at 9:00 a.m. in Courtroom No. 4** of the Lycoming County Courthouse. For Rule 600 purposes, this time shall run against the Defendant. The terms of the plea agreement are that the defendant will receive a county sentence. This contemplates no more than twelve (12) months minus one (1) day to twenty-four (24) months minus one (1) day be served at the Lycoming County Prison or Lycoming County Work Release Facility. Of course, the Court is free to accept or reject the plea agreement.

By The Court,

Marc F. Lovecchio, Judge

cc: Nicole Ippolito, Esquire (ADA)
Andrea Pulizzi, Esquire
Gary Weber, Esquire, Lycoming Reporter
Work file