

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CP-41-CR-0000319-2018  
vs. :  
 : CRIMINAL DIVISION  
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 :  
 :  
 :  
 : 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 May 28, 2019 and docketed on June 5, 2019.

By way of background, on January 17, 2018, a criminal complaint was filed against Appellant, Jaziah Strickland (hereinafter “Strickland”), charging him with aggravated assault of an unborn child, aggravated assault, simple assault, disorderly conduct (fighting), disorderly conduct (hazardous/physically offensive condition), and summary harassment.

On March 22, 2019, Strickland entered an open guilty plea to Count 2, aggravated assault (attempt to cause serious bodily injury),<sup>1</sup> a felony of the first degree. Strickland admitted that on January 17, 2018 he assaulted his pregnant girlfriend. He admitted that he punched her in the head several times and kicked her in the body at least two or three times. Strickland had some difficulty remembering all of the specifics of the incident, as he stated that he was high on acid and ecstasy at the time.

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<sup>1</sup> 18 Pa. C.S.A. §2702(a)(1).

On May 28, 2019, the court sentenced Strickland to three to seven years' incarceration in a state correctional institution. Upon motion of the Commonwealth, the remaining charges were dismissed.

On June 6, 2019, Strickland filed a motion for reconsideration of sentence. Although the minimum sentence imposed was at the bottom of the standard sentencing guideline range, Strickland alleged that: the court failed to consider his rehabilitative needs; the sentence was manifestly excessive in light of his ongoing mental health issues; and he would lose custody and the chance to be a father to his child. He asked the court to reconsider its sentence and sentence him to a county sentence with mental health treatment and continued supervision. The court summarily denied the motion on June 11, 2019.

On June 25, 2019, Strickland filed a notice of appeal. Although the court directed Strickland to file a concise statement of errors complained of on appeal within 21 days of July 17, 2019, no such statement was ever filed.

While it is not certain, the court assumes Strickland is asserting that his sentence was unduly harsh and excessive for the reasons stated in his motion for reconsideration.

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. 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.

*Commonwealth v. Garcia-Rivera*, 983 A.2d 777, 780 (Pa. Super. 2009), quoting *Commonwealth v. Hoch*, 936 A.2d 515, 517-518 (Pa. Super. 2007).

The court did not sentence Strickland for reasons of partiality, prejudice, bias

or ill will. Contrary to Strickland's assertions, the court did consider his rehabilitative needs, his ongoing mental health concerns and his desire to have custody and be a father to his child. It was those considerations that resulted in a sentence at the bottom of the standard sentencing guideline range rather than a sentence at the top of the standard range or in the aggravated range.

A defendant's rehabilitative needs are only one of the factors the court must consider when imposing a sentence. In addition to the defendant's rehabilitative needs, the court must also consider the protection of the public and the gravity of the offense as it relates to the impact on the life of the victim and on the community. 42 Pa. C.S.A. §9721(b). The court must also consider the sentencing guidelines. *Id.*

Strickland had a very difficult childhood. His father abandoned him and his mother was in and out of jail. He was raised by his grandmother. When he was seven or eight years old, he was the victim of a crime committed by an older child.

He also has a variety of mental health diagnoses and disorders, at least some of which are as a result of his difficult childhood.

The offense gravity score for this offense was a ten. Strickland's prior record score was a two, which was based on a juvenile adjudication for a theft offense graded as felony of the second degree. Therefore, the standard sentencing guideline range was 36-48 months, the aggravated range was 48-60 months, and the mitigated range was 24-36 months. All numbers in the ranges suggest months of minimum confinement. See 204 Pa. Code §303.16(a). A sentence within any of these ranges would result in incarceration in a state correctional institution. See 42 Pa.C.S. §9756(b)(minimum sentence shall not exceed one-half of the maximum sentence imposed); 42 Pa. C.S.A. §9762 (generally requiring

individuals with maximum sentences of two years or more to be committed to the Department of Corrections).

Strickland had numerous other juvenile adjudications for misdemeanor offenses, which did not count in his prior record score. Some of these offenses were for assaultive behavior.

As a result of his previous juvenile adjudications, Strickland had various placements, treatments and services prior to the commission of this offense.

Strickland was approximately three months shy of his 19<sup>th</sup> birthday when he committed this offense, and he was 20 years old when he was sentenced.

The nature and circumstances of the offense were awful. The incident was captured on video, which was played for the court at the time of sentencing. Strickland got into an argument with his pregnant girlfriend. He became angry, volatile, and physically aggressive. He repeatedly punched her in the head and kicked her in the torso with all of his might. Even defense counsel described the video as disturbing, which was an understatement. Strickland was fortunate that he did not seriously and permanently injure his then-girlfriend or his unborn son.

Strickland is an angry young man, who cannot control his temper, which makes him a danger to the community. This was not an isolated incident. Strickland had a history of losing his temper and engaging in assaultive behavior.

Strickland also could not conform his behaviors to the rules and expectations while he was incarcerated in the county prison awaiting trial and sentencing. He had numerous write-ups and sanctions, including disciplinary lock-ups.

The county prison does not have the programs and services that the

Department of Corrections can provide to Strickland, such as programs related to anger management, decision-making, and parenting, as well as dual diagnosis groups and medication compliance programs to assist with his mental health issues.

Given all the facts and circumstances, the court found that the sentence of three to seven years' incarceration in a state correctional institution was appropriate. The court recognized that Strickland's brain has not fully developed and matured yet and likely will not until he reaches 26 or 27 years of age. The sentence imposed keeps Strickland under supervision until that time. The court is hopeful that Strickland will take advantage of the programs available in the state correctional institution, and he will find a way to appropriately deal with his anger issues. Right now, however, a state sentence was necessary to reflect the seriousness of the offense and to protect the community.

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

By The Court,

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Marc F. Lovecchio, Judge

cc: Joseph Ruby, Esquire (ADA)  
Matthew Welickovitch, Esquire (APD)  
Work file  
Gary Weber, Esquire (Lycoming Reporter)  
Superior Court (original & 1)