

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : **CR-1507-2019**
:
v. :
:
SETH YOUNG, :
Defendant :

OPINION AND ORDER

On June 9, 2020 a hearing was held by this Court on the Defendant’s motion to be removed from the DUI Court program. Despite his initial request, during the hearing the Defendant requested in the alternative that he be permitted to work outside the county rather than being removed. After consideration of the motion, the Defendant’s request will be granted in part and denied in part.

The Defendant was admitted into the DUI Court program on December 4, 2019. At that time the Defendant was pleading guilty to a count of Driving under the Influence, highest rate second in ten as a misdemeanor of the first degree and a count of Fleeing or Attempting to Elude a police officer, a misdemeanor of the second degree. The aggregate sentence of confinement for the Defendant was 135 days to be served entirely on the electronic monitoring program. As part of his pre-placement processing Defendant was advised of his responsibilities of the program specifically reporting to the court every other week, attending counseling, attending self-help meetings as well as being required to provide random urine tests. Knowing all of this information, the Defendant accepted placement onto the DUI Court program. Since the Defendant lost his license, the Defendant is unable to drive. The Defendant has been employed by his current employer as a laborer since March 2019. Specifically the Defendant

works with a heavy highway bridge and road contractor with employment outside of the county. The Defendant's work is seasonal. He would be able to obtain employment by getting rides with coworkers to get to his work location outside the county.

The first question before the Court is whether or not the Defendant can request release from his commitments in DUI Court to enable him to work out of county. The Court will not grant this request. The Defendant was aware of the conditions of the DUI Court program before he accepted placement into the program in December. Although due to the seasonal nature of his work it did not affect him at that time, he certainly would have known that once the weather broke and construction opportunities came back either because of weather or the lifting of restrictions for COVID-19, he would need to be able to travel for his work. The Defendant, having received the benefit of his plea agreement contingent upon his placement into DUI Court cannot now change his mind.

The next question raised at the hearing is whether the Defendant could obtain permission to work out of county during the active portion of the DUI Court program. The Court believes that with the proper verification and continued successful performance by compliance with conditions of the program, the Defendant will be permitted to do so. In light of COVID-19 the opportunities for the Defendant to participate by video exist so the Defendant will still be compliant with his reporting obligation in phase II of every other week appearing before the Court. The Defendant would not need to return back from where he is working. The other conditions of the program that the Defendant must comply with are reporting to the Adult Probation office, attending meetings, attending counseling, and color call in. Once the Defendant presents a plan acceptable by the Adult Probation office which has approved similar plans in the past, the Court sees no reason why the Defendant would not be able to continue

with the program and be able to work out of county. As soon as the Defendant can present his proposal to the Adult Probation office, the sooner his authorization to work as proposed can be given.

ORDER

AND NOW this 25th day of June 2020, upon consideration of the Defendant's motion to be released from the DUI Court program the motion is **GRANTED** in part and **DENIED** in part. The motion is granted to the extent that the Defendant will be given permission provided he submits an equivalent treatment plan to be compliant with the DUI Court program to enable him to work outside the county. In all other respects the motion is **DENIED**.

BY THE COURT,

Nancy L. Butts, President Judge

cc: DA
Kyle Rude, Esq.
Luke Ellison, APO