

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA :
 : **CP-41-CR-187-2012**
v. :
 :
 :
 :
JHALIL MOORE, :
Defendant :

OPINION AND ORDER

On April 11, 2022, Jhalil Moore (Defendant) came before the Court upon request of the Lycoming County Adult Probation Office (APO). The Pennsylvania Parole Board (PPB) requested that APO ask the Court to modify the conditions of supervision in his 2012 case to include standard sex offender conditions. For the reasons set forth in this opinion, the Court cannot grant the request. As a result of this decision, it would appear that the Board may refuse his supervision and it shall revert back to the Adult Probation Office of Lycoming County.

Background and Procedural History

Under docket number CR-187-2012, Defendant pled guilty and was sentenced on the charge of Criminal Mischief¹, a misdemeanor of the second degree. Judge Richard A. Gray² took the plea and sentenced the Defendant to two (2) years state probation supervision which was the negotiated plea agreement. In addition, Judge Gray ordered that this sentence be served consecutively to any other sentence the Defendant was serving. The other sentence that the Defendant was serving at the time was a three (3) to six (6) year state prison sentence he received from Judge Marc F. Lovecchio³ for a conviction⁴ in 2011 on the charge of Rape of an

¹ 18 Pa. C.S. § 3304(a)(5).

² Judge Gray retired from active judicial service on June 30, 2018.

³ Judge Lovecchio retired from active judicial service on November 2, 2021.

⁴ CP-41-CR-375-2010

Unconscious Person⁵, a felony of the first degree. Although no Sexually Violent Predator hearing was held at the time Defendant was sentenced on the 2011 conviction, Defendant was identified as a lifetime registrant pursuant to Megan’s Law as a result of his conviction⁶. Defendant was released on parole on April 9, 2019 to the conditions of parole, which included the standard sex offender conditions, including successful completion of Project Point of Light (PPOL), a counselling program directly geared toward sex offenders. While on parole, Defendant minimally complied with his counseling but did not complete it by the expiration of his maximum sentence. *See* Letter from PPOL, APO exhibit #2. The PPB is now requesting that the Court add the conditions of sex offender supervision to the Defendant’s current sentence so that as a lifetime registrant, he would be required to continue to maintain all of the prohibitions for which someone who is on parole for a sex offense would also be required to comply. An initial hearing was scheduled for April 7, 2022 but held on April 11, 2022. While no attorney appeared on behalf of APO/PPB, Agents Joshua Kriger of PPB and Lycoming County APO Jessica Mazzante appeared. Defendant was represented by the Chief Public Defender, Nicole J. Spring, Esquire.

Discussion

“As a general matter, the sentencing court is charged to impose a sentence that is ‘consistent’ with ‘the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the defendant.’” 42 Pa.C.S. § 9721(b). *Commonwealth v. Carr*, 262 A.3d 561, 567–68 (Pa. Super 2021). With specific reference to probation conditions, the sentencing court is required to impose “reasonable conditions” that “it deems necessary to ensure or assist the defendant in

⁵ 18 Pa.C.S. § 3121(a)(3).

⁶ 42 Pa C.S. § 9799.10-9799.42

leading a law-abiding life.” 42 Pa.C.S. § 9754(c). Sentencing courts have discretion to impose conditions of probation and such conditions must be reasonable and devised to serve rehabilitative goals, such as recognition of wrongdoing, deterrence of future criminal conduct, and encouragement of law-abiding conduct. *Commonwealth v. Hall*, 80 A.3d 1204, 1215 (Pa. 2013).

The Court believes that the conditions requested would have been appropriate to impose on this Defendant for his first sentence imposed by Judge Lovecchio, as there would be a sufficient nexus between the crime charged and the requirements of the standard sex offender conditions. However, in reviewing the facts of this case before the Court, Defendant was charged with the tampering and loss of use of an electronic monitoring bracelet when he was on bail supervision for another criminal case. Agent Kriger justifies his request by citing to the Parole Board regulation 4.01.15 because to the PPB he is a sex offender⁷. While the Court is frustrated that Defendant neither completed his sex offender conditions nor was recommitted to complete them in state prison while he was still serving his rape sentence, to add those conditions to this case would be to require him to participate in programming that has no nexus to the facts and circumstances of this case. Therefore, the APO request to add the conditions cannot be granted.

⁷ See *In the Matter of Richard Harris, Requester v. Pennsylvania Board of Probation and Parole, Respondent* 2018 WL 3629704.

ORDER

AND NOW, this 22nd day of April, 2022, after hearing and based upon the foregoing Opinion, the request of the Lycoming County Adult Probation Office to add the standard sex offender conditions to the Defendant's supervision is hereby **DENIED**. The result of this decision may be that the Pennsylvania Parole Board may no longer agree to supervise Defendant on this sentence. If that occurs and the Defendant's supervision is returned to the County, then the Court will impose only the standard conditions of Lycoming County Adult Probation supervision.

By the Court,

Nancy L. Butts, President Judge

cc: APO (JM)
PBPP (Kriger)
Nicole J. Spring, Esq.