

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA	:	
	:	CR-486-2022
	:	1129 MDA 2022
vs.	:	
	:	CRIMINAL DIVISION
JEFFREY LEE PROKOP,	:	
Defendant	:	Appeal

Date: October 3, 2022

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

On April 11, 2022, the Appellant pled guilty to Amended Count 2, Criminal Trespass, a felony of the third degree. On June 23, 2022, the Appellant was sentenced to pay all costs of prosecution and to serve a period of incarceration of 12 to 36 months at a State Correctional Institution. The Appellant was entitled to 99 days' credit for time served. A Motion for Reconsideration was filed on July 5, 2022, and said motion was summarily denied by this Court on July 21, 2022.

Appellant's Notice of Appeal was filed on August 9, 2022. On August 24, 2022, Appellant filed a Concise Statement of Matters Complained of on Appeal which raised the following matters on appeal:

1. The Defendant avers that the imposition of sentence at a State Correctional Institution for 12 to 36 months of incarceration where a county sentence would have sufficed is manifestly excessive;
2. The Defendant avers that the imposition of sentence at a State

Correctional Institution for 12 to 36 months of incarceration where a county sentence would have sufficed is unduly harsh;

3. The Defendant avers that the imposition of sentence at a State Correctional Institution for 12 to 36 months of incarceration where a county sentence would have sufficed is an abuse of discretion.

Appellant's counsel indicated that he anticipates filing a brief pursuant to ***Anders v. California***, 386 U.S. 738 (1967).

Appellant had a Prior Record Score of RFEL at the time of sentencing. Pursuant to the Pennsylvania Commission on Sentencing's Basic Sentencing Matrix, the Offense Gravity Score for criminal trespass is 3 and the standard sentencing range is 12-18 months.¹ Appellant's counsel argued for a county sentence on his client's behalf, citing his age and the need for supervision and constant counseling due to his mental health concerns and criminal history. The Appellant spoke at the sentencing and stated that he takes care of his mother who has Parkinson's Disease and also recently had heart surgery. He indicated that he was needed to cook, clean, do laundry, and take care of the yard. Additionally, the Appellant talked about animals that he is responsible for taking care of. The Court sentenced the Appellant on the low end of the standard range, and directed that his sentence be served in a State Correctional Facility.

Defendant argues that the imposition of sentence at a State Correctional Institution rather than a county sentence is manifestly excessive, unduly harsh, and an abuse of discretion. "A sentencing judge has broad discretion in determining a

¹ 204 Pa. Code § 303.15; 204 Pa. Code § 303.16(a)

reasonable penalty. . . as it is the sentencing court that is in the best position ‘to view the defendant’s character, displays of remorse, defiance, or indifference, and the overall nature of the crime.’” Commonwealth v. Edwards, 194 A.3d 625, 637 (Pa. Super. 2018). “Where the court’s sentencing colloquy shows consideration of the defendant’s circumstances, prior criminal record, personal characteristics and rehabilitative potential, and the record indicates that the court had the benefit of the presentence report, an adequate statement of the reasons for sentence imposed has been given.” Commonwealth v. Brown, 741 A.2d 726, 735 (Pa. Super. 1991).

As the Court indicated on the record at the time of sentencing, the presentence report showed a lengthy criminal history consisting of similar offenses: burglaries, theft, and forgeries – all crimes of deception. Additionally, this Court took into consideration the Appellant’s need for services while incarcerated, and based its decision to impose a state sentence rather than a county sentence on the fact that the county prison has not yet restored services that were suspended due to the pandemic. Thus, Appellant is far more likely to receive the treatment and services he needs in a state correctional facility than the county prison. Additionally, the Court noted its belief that a state sentence is more appropriate given the Appellant’s prior history and pattern of criminal behavior.

For all of the foregoing reasons, the sentence of the Court was not manifestly excessive, unduly harsh, or an abuse of discretion. Therefore, the Court

respectfully requests that the judgment of sentence entered on June 23, 2022, be affirmed.

BY THE COURT,

Ryan M. Tira, Judge

RMT/jel

cc: Superior Court (Original +1)
Court Reporter
DA
PD (Eric Birth, Esquire)
Gary Weber, Esquire
Jennifer E Linn, Esquire – Judge Tira's Office