IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : 98-12,087

VS :

JOHN COOKE :

OPINION IN SUPPORT OF ORDER
IN COMPLIANCE WITH RULE 1925(A)
OF THE RULES OF APPELLATE PROCEDURE

The Defendant appeals this Court's Order dated June 22, 1999. Pursuant to that Order, the Defendant was sentenced to undergo incarceration for a minimum of sixty (60) months and a maximum of one hundred twenty (120) months for the charge of robbery; a minimum of thirty (30) months and a maximum of one hundred twenty (120) months for the charge of kidnapping; and a minimum of eighteen (18) months and a maximum of sixty (60) months for the charge of conspiracy. These sentences were imposed consecutively for an aggregate period of incarceration of a minimum of one hundred eight (180) months and a maximum of twenty-five (25) years. The Defendant was additionally sentenced to undergo incarceration for a minimum of one (1) month and a maximum of twelve (12) months for the charge of receiving stolen property, and a minimum of eighteen (18) months and a maximum of thirty-six (36) months for the charge of robbery of a motor vehicle. These sentences imposed were to run concurrent with the sentences for robbery, kidnapping, and conspiracy. This sentence was imposed after the Defendant pled guilty to the charges on March 19, 1999.

Defendant filed a direct appeal of the sentence on July 22, 1999. The Superior Court affirmed the judgement of the sentence on July 6, 2000, after finding that Defendant had waived his issues by failing to provide the Court with a concise statement of matters complained of on appeal in compliance with the Rules of Appellate Procedure. Defendant filed a petition for Post Conviction Collateral Relief on January 9,

2001, alleging his counsel's ineffectiveness for failing to perfect the appeal. This Court granted his petition, allowing him to appeal *nunc pro tunc,* by Opinion and Order dated April 5, 2001.

In his statement of matters complained of on appeal, Defendant raises two issues for review. Defendant first argues that the Court erred in its imposition of sentence. This Court previously addressed the reasoning behind the sentencing order by Opinion dated December 9, 1999, submitted at the time of the direct appeal. The Court relies on the reasoning set forth in that Opinion in addressing arguments pertaining to the legality of the sentence imposed.

Defendant's second argument is that his counsel was ineffective for inducing his plea, and the Court erred in accepting a plea that was not knowing, intelligent, and voluntary. This Court rejects Defendant's contention that his plea was not knowing, intelligent and voluntary. Initially, the Defendant completed an extensive written colloquy. In the written colloquy the Defendant acknowledges his understanding of the trial process and acknowledges that by pleading guilty he was giving up his right to a trial by jury. (G.P. Colloquy at p. 4) The Defendant acknowledges that he thoroughly discussed his case with his attorney, and that it was the Defendant's decision to plead guilty. In response to the question "why do you wish to plead guilty," the Defendant wrote "Because I acknowledge what I did." (Id., p. 5)

In addition to the written colloquy, the Court conducted an oral colloquy with the Defendant at the time that he rendered his plea. The Court went over the charges, the elements of the charges, and the maximum punishment associated with each charge. (N.T. 3/19/99, pp. 2-4) After discussing the sentence ranges, the Court asked the Defendant to explain what occurred on the date of the incident. The Defendant stated that he and his brother were outside the Pub when they spotted someone coming up

the alley in a vehicle. The Defendant stated that he asked his brother to give him the gun, a 357 magnum handgun. (Id., p. 5) The Defendant approached the vehicle, pointed the gun at the driver, and told the driver to get in the back seat. The Defendant drove the vehicle, and his brother was in the back seat, pointing the gun at the victim. They drove the vehicle to Baltimore, Maryland, where they eventually let the victim leave with his vehicle. (Id., pp. 5-8) This Court finds the written and oral colloquies refute Defendant's allegation his plea was involuntary. Accordingly, we find his argument without merit

Dated:

By The Court,

Nancy L. Butts, Judge

xc: Matthew J. Zeigler, Esquire
Kenneth Osokow, Esquire
Honorable Nancy L. Butts
Law Clerk
Gary Weber, Esquire
Judges