

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

COMMONWEALTH	: NO. CR-926-2022
	:
vs	:
	:
MICHELLE STRAYER,	:
Defendant	:

OPINION AND ORDER

AND NOW, this 3rd day of **June, 2024**, before the Court is a Motion to Enforce Plea Agreement filed on behalf of the Defendant by Timothy A.B. Reitz, Esquire, on April 11, 2024. Defendant was charged on April 1, 2022, with Endangering Welfare of Children, Obstruction, Corruption of Minors, Criminal Attempt – Rape of Child, Sexual Exploitation of Children, and Unlawful Contact with Minor related to numerous incidents of sexual abuse of the Defendant’s six year old daughter by the Defendant’s paramour.

Defendant’s motion alleges that the Defendant cooperated with the District Attorney’s office by providing an interview which lasted approximately 2.5 hours, after which her attorney spoke with the ADA about a plea agreement. The motion further alleges that the ADA noted she could not provide a promised plea agreement at that time due to the co-defendant proceeding to trial, the attorneys “began speaking of possibilities of the terms of a plea agreement.” Defense counsel asked for a county sentence and the ADA noted she could not state she would offer a county sentence but “would craft a plea agreement which would consider all the help and cooperation Defendant was providing.” Defendant’s motion alleges that based on such assurances she submitted to additional recorded interviews, voluntarily turned over her phone for a search which produced texts she later explained to

the DA's office for use at her codefendant's trial, and subsequently testified against her codefendant at his trial. Additionally, Defendant consented to the termination of her parental rights and adoption of the victim child.

Following the codefendant's trial and sentencing, Defendant's counsel requested a plea offer and alleges what he was provided was "not in the spirit of negotiations." The District Attorney's office provided an offer for Defendant to plead guilty to all charges for an open sentence. Defendant alleges this constitutes no offer whatsoever and that the District Attorney's office has "wasted Court time, Attorney's time, and county money" and the "behavior of the District Attorney's office in this case will send a chilling message to anyone cooperating with law enforcement that the office cannot be trusted." Defendant requests that this Court enter an order directing the District Attorney's Office to negotiate in good faith.

An argument was held on May 17, 2024. Lindsay Sweeley, Esquire, appeared on behalf of the Commonwealth and Andrea Pulizzi, Esquire, appeared on behalf of Attorney Reitz for the Defendant. Attorney Pulizzi argued that the Defendant did everything she was asked to do and more, and what the District Attorney's office offered her was no better than what she would have received had she not cooperated or had she chosen to go to trial and been found guilty of all counts. She further argued that plea negotiations are likened to contract law and ambiguities should be construed against the government. The Commonwealth's position is that it is the policy of the District Attorney's office to never promise anything to Defendants during plea negotiations and the Defendant received a benefit for her cooperation when the District Attorney's office did not pursue the same

additional charges against her that it did against her codefendant based upon the information she provided.

Pennsylvania Rule of Criminal Procedure 590 governs plea agreements. The rule has been interpreted to mean that no plea agreement exists unless and until it is presented to the court. The Supreme Court has also held that where a plea agreement has been entered of record and has been accepted by the court, the Commonwealth is required to abide by the terms of the plea agreement. However, prior to the entry of a guilty plea, the defendant has no right to specific performance of an ‘executory’ agreement. *See Commonwealth v. McElroy*, 665 A.2d 813, 816 (Pa. Super. 1995) (citations and internal quotation marks omitted).

Here, we have neither entry on the record nor acceptance by the Court. In fact, Defendant’s own petition confirms that there was never any meeting of the minds between her counsel and the Assistant District Attorney. Specifically, Defense counsel asked for a county sentence and the ADA stated she would *not* offer a county sentence but would craft an agreement which would consider the Defendant’s cooperation. Nothing indicates there was an agreement regarding specific charges to which the Defendant would plead guilty. There was no offer and acceptance by the Commonwealth and Defendant, no agreement entered of record or accepted by the Court. The Court would note that when asked on cross-examination at the trial of her codefendant, “I’m assuming that you were not made any plea offers or anything like that with respect to your testimony today, right?” the Defendant replied “[a]bsolutely not.” (see Transcript of Jury Trial, *Com. v. Marcus McDaniel* CR-925-2022, 10/26/23, pg. 41-42). Later, on redirect examination, when First Assistant District

Attorney Martin Wade asked “[w]ere you ever given any immunity?” the Defendant answered “[n]o, sir, I was never promised anything.” (Id. at pg. 43).

Simply put, there was never a valid plea agreement to enforce in this matter. At best, the Defendant and the Commonwealth “began speaking of possibilities of the terms of a plea agreement” as stated in the Defendants Motion. However, the Commonwealth is never under any legal obligation to plea bargain with any defendant. The District Attorney and his ADAs may decide, as a function of their prosecutorial discretion, that a plea bargain agreement is not in the best interest of the Commonwealth. While the Defendant requests that the Court enter an Order directing the District Attorney’s Office to negotiate in good faith, this Court finds no reason to usurp the authority of the District Attorney to determine if and when a plea offer is extended to a Defendant.

Accordingly, the Motion to Enforce Plea Agreement filed on April 11, 2024, is

DENIED.

BY THE COURT,

Ryan M. Tira, Judge

RMT/jel

Cc: District Attorney
Timothy A.B. Reitz, Esquire
Gary Weber, Esquire