

IN THE COURT OF COMMON PLEAS
OF LUZERNE COUNTY
PENNSYLVANIA
CRIMINAL ACTION - LAW

COMMONWEALTH OF PENNSYLVANIA :

-v- :

JEREMIAH SMITH : NO. 2630,2733 OF 2016

TRANSCRIPT OF PROCEEDINGS
SENTENCING

BEFORE:

THE HONORABLE DAVID W. LUPAS, J.
Luzerne County Courthouse
200 North River Street
Wilkes-Barre, PA 18711
Wednesday, March 8, 2017

APPEARANCES:

Gerry Scott, Esquire
Assistant District Attorney
On behalf of the Commonwealth

John Pike, Esquire
On behalf of the Defendant

2

1 (Defendant sworn.)

2 **THE COURT:** Jeremiah Smith, 2630 and 2733

3 of 2016. I know there was a PSI completed

4 which I understand counsel have reviewed.

5 Also, we had continued this matter so the

6 parties could review a question they had

7 concerning the Defendant's prior record score.

8 I don't know if that question has been

9 answered.

10 **MR. PIKE:** That's been resolved.

11 At the time of the juvenile offense, my

12 client was 14 years old and 5 months. So the

13 calculations in the PSI are correct. The only

14 modification I would point out to the Court,

15 pretrial credit was determined through

16 February 9th of 2017, and there's been an

17 additional 27 days since then. So I'd ask for

18 an additional 27 days credit.

19 **THE COURT:** So noted. Anything you wish

20 to offer on the Defendant's behalf or that he

21 would wish to say or offer on his own behalf?

22 **MR. PIKE:** He is 19 years old. He has

23 pled guilty, accepted responsibility for his

24 conduct. There have been no issues,

25 infractions, or misconducts in the county

3

1 correctional facility for the approximately

2 eight to nine months he's been there. He's

3 looking at a significant standard sentencing

4 range. I'd ask the Court, given his age,

5 given his compliance with the rules and

6 regulations, policies, and procedures of the

7 Luzerne County jail, that the Court impose a

8 concurrent or -- I'm sorry, 48-to-68-month

9 sentence, standard range, concurrent with

10 regard to the other four counts -- three

11 counts.

12 **THE COURT:** Is there anything, Mr. Smith,

13 you want to say or offer on your own behalf?

14 You have a right to address the Court if

15 there's anything you wish to offer.

16 **THE DEFENDANT:** I know what I did was

17 wrong. I apologize. I just want to get this

18 past and just do what I got to do, come home.

19 **THE COURT:** Anything on behalf of the

20 Commonwealth?

21 **MR. SCOTT:** Briefly. Commonwealth does

22 take this case extremely seriously. As Your

23 Honor is aware, there is the F-1 conspiracy

24 robbery in 2011; he was 14. However, it

25 doesn't appear that he has learned his lesson

4

1 from that issue.

2 With regard to 2733 and 2630, these are

3 both felony offenses. Moreover, I would point

4 out that on 2630, which was a pistol robbery,

5 he does appear to have actually shot at the

6 person who he -- or who was running away from

7 him and he chased. For that reason, the

8 Commonwealth would -- well, it is, of course,

9 up to your discretion. The Commonwealth would

10 suggest that this -- that these offenses be

11 taken extremely seriously and treated as such.

12 **THE COURT:** All right. The Court having

13 reviewed the presentence investigation report

14 and everything that has been offered here

15 today, noting the serious nature of the

16 offenses involved here, the Defendant does

17 have, as is noted, a prior juvenile record

18 that seems to involve similar type conduct, a

19 conspiracy to robbery and possession of

20 firearm, and these two offenses both include

21 robberies, and at least in one of them, at

22 least, a firearm was involved.

23 Defendant, unfortunately, is at a very

24 young age. However, he's been involved in

25 some very serious criminal activity for which

5

1 he needs to be held accountable and given an

2 appropriate lengthy period of time to address

3 whatever underlying issues are causing this

4 behavior. And so as not to diminish the

5 serious nature of the offenses involved or

6 their impact upon the victims in these

7 matters, the Court will fashion a sentence

8 that will fall within the standard ranges of

9 the applicable guidelines.

10 I will run some of them concurrent to note

11 that the Defendant by his pleas here has

12 accepted responsibility. However, I feel he

13 would be in need of a substantial period of

14 incarceration in a state correctional

15 institution to hopefully address his issues

16 and take advantage of the programs they offer.

17 I will, therefore, sentence the Defendant

18 on 2630 of '16, count one, robbery, sentence

19 the Defendant to a minimum of 48 months to a

20 maximum of 128 months incarceration in a state

21 correctional institution. On the count two,

22 aggravated assault, the Court will sentence

23 the Defendant to a minimum of 24 months to a

24 maximum of 48 months in a state correctional

25 institution. I will run count two concurrent

6

1 with count one. 2630 of '16, count four, the
2 firearm offense, the Court will sentence the
3 Defendant to minimum of 12 months to a maximum
4 of 24 months incarceration in a state
5 correctional institution, and that sentence
6 will also run concurrent with the two
7 previously imposed sentences.

8 On Docket 2733 of 2016, count one,
9 robbery, the Court will sentence the Defendant
10 to a minimum of 48 months to a maximum of 120
11 months incarceration in a state correctional
12 institution. That sentence is to run
13 consecutive to the previously imposed
14 sentences on 2630 of 2016.

15 Therefore, the aggregate sentence of the
16 Court is a minimum of 8 years to a maximum of
17 20 years to be served in a state correctional
18 institution. Again, the Court feels that is
19 necessary given the serious and violent nature
20 of the offenses and to also insure the safety
21 of the community.

22 Defendant also is to pay all costs of
23 prosecution, have no contact with Jasmine
24 Hutchins, he's not to enter the Sherman Hills
25 complex.

7

1 Defendant is to undergo appropriate drug
2 and alcohol and mental health evaluations and
3 comply with all recommended treatment.
4 Refrain from using any drugs or alcohol unless
5 prescribed by a physician. Don't frequent any
6 places serving alcohol; don't associate with
7 anyone using drugs or alcohol. And Defendant
8 is to be subject to random testing for drugs
9 or alcohol. Have no contact with any victims
10 in these matters.

11 Defendant is to pay the restitution of
12 \$800 to the ATF. And I don't know if I
13 ordered it yet, he's to submit a DNA sample as
14 required. He is not eligible for an RRRRI
15 minimum sentence.

16 He is entitled to credit. On 2630 of '16,
17 it looks like he has credit from 6/28/16 up
18 through today's date of March 8th, 2017, which
19 would be a -- I think it's a total of 253
20 days.

21 And on 2733 of '16, credit per the PSI is
22 from June 29th, 2016 through today's date of
23 March 8th, 2017, which would be 252 days. I'm
24 not sure, there's one day difference for
25 whatever reason on here on the PSI. Maybe the

8

1 offenses might have been charged at different
2 times. All right.

3 Your post-sentence rights would allow you
4 10 days to file any post-sentence motions or
5 30 days to appeal my sentence. If you were to
6 file any post-sentence motion, the Court would
7 have 120 days to rule on it. Thereafter, you
8 would have 30 days to appeal any order
9 deciding your post-sentence motions.

10 You have the right to counsel in regard to
11 any post-sentence motions or appeals. You
12 currently have counsel who can further review
13 all those options with you.

14 **MR. PIKE:** Your Honor, could I ask, on the
15 2630, count one, robbery, the maximum is 128
16 months?

17 **THE COURT:** It should be 120 months. It
18 would be 10 years. It would be 120 months. I
19 may have misspoke. Just to clarify, the
20 maximums were 120 months. I apologize.

21 The dates of credit, for whatever reason,
22 it looks like 2630 is June 28th, 2016 to
23 today's date and 2733 is from June 29th, 2016
24 to today's date. Defendant will be remanded.
25 (Proceedings concluded at 11:41 a.m.)

C E R T I F I C A T E

I HEREBY CERTIFY that the proceedings are contained fully and accurately from the notes taken by by me in the above-captioned matter and that this is a correct transcript of the same.

Cynthia L. Rachilla, RMR, CRR
Official Court Reporter

Date: _____

The foregoing record of the proceedings is hereby approved and directed to be filed.

David W. Lupas, J.

Date: _____