NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
v.	:	
JASIRA MARY VELEZ VEGA	:	
Appellant	:	No. 1028 MDA 2025

Appeal from the Judgment of Sentence Entered June 18, 2025
In the Court of Common Pleas of Lebanon County
Criminal Division at No: CP-38-CR-0001083-2024

BEFORE: LAZARUS, P.J., STABILE, J., and BENDER, P.J.E.

MEMORANDUM BY STABILE, J.: **FILED NOVEMBER 06, 2026**

Appellant, Jasira Mary Velez Vega, appeals from the judgment of sentence imposed on June 18, 2025, by the Court of Common Pleas of Lebanon County. Specifically, she contends the trial court abused its discretion because certain probation conditions imposed were not tailored to her rehabilitative needs. Upon review, we affirm.

The facts of this case are not in dispute:

> [O]n August 11, 2024, an individual mistakenly left his debit card on the counter of a gas station. Approximately ten minutes later, Appellant took the card from the counter, concealed it in her shirt, and then used it to make a purchase in the amount of $22.90. The police interviewed Appellant during the course of their investigation and Appellant stated, "Yeah. I took it and used it, and then I threw it away."

Trial Court Opinion, 9/22/25, at 1. Appellant was charged with access device fraud[1] and theft of property[2] and pleaded guilty to both counts on May 1, 2025. Sentencing was deferred for the completion of a pre-sentence investigation. Prior to sentencing, Appellant filed a sentencing memorandum and requested that she be excluded from certain general rules of probation because they were not specifically tailored to her and there was no nexus between the underlying crime and the condition(s). On June 18, 2025, Appellant was sentenced to 24 months of probation. The trial court rejected Appellant's argument and ordered her to comply with all general conditions of probation and parole, as well as the special condition of maintaining full-time employment, education or community service. Appellant was provided with a copy of the probation conditions at the time of sentencing.

Appellant filed a motion to reconsider and requested the trial court to "reconsider her sentence as it relates to the general rules of probation with consideration that some of the rules of probation are not specifically tailored to her[.]" Motion for Reconsideration, 9/19/25, at 3 (our pagination). The trial court treated the pleading as a post-sentence motion and denied it on July 18, 2025. This appeal followed. Both the trial court and Appellant complied with Pa.R.A.P. 1925. Appellant raises a sole issue for our review:

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[1] 18 Pa.C.S.A. § 4106(a)(1)(ii).

[2] 18 Pa.C.S.A. § 3924.

> Did the trial court err or abuse its discretion when it sentenced [Appellant] to the general rules of probation, failing to specifically tailor the rules of probation and conditions for [Appellant]?

Appellant's Brief, at 2.

"A claim that conditions of probation are unreasonable constitutes a challenge to the discretionary aspects of a defendant's sentence." ***Commonwealth v. Seiden***, 359 A.3d 25, 33 (Pa. Super. 2026) (citing ***Commonwealth v. Laughman***, 314 A.3d 569, 571 (Pa. Super. 2024)). Challenges to the discretionary aspects of sentencing are not entitled to appellate review as a matter of right. ***Commonwealth v. Clemat***, 218 A.3d 944, 959 (Pa. Super. 2019). Rather, such challenges are considered petitions for allowance of appeal. ***Id.*** Thus, an appellant must invoke our jurisdiction by satisfying a four-part test: (1) whether appellant has filed a timely notice of appeal; (2) whether the issue was properly preserved at sentencing or in a motion to reconsider and modify sentence; (3) whether appellant's brief has a fatal defect pursuant to Pa.R.A.P. 2119(f); and (4) whether there is a substantial question that the sentence appealed from is not appropriate under the Sentencing Code. ***Id.***

Here, Appellant filed a timely notice of appeal and preserved the issue in a motion for reconsideration. The appellate brief did not include a Rule 2119(f) statement setting forth in a separate section of the brief a concise statement of the reasons relied upon for allowance of appeal with respect to the discretionary aspects of Appellant's sentence. However, the Commonwealth did not object to this omission; therefore, we decline to find

waiver and will determine whether a substantial question exists. ***See Commonwealth v. Perzel***, 291 A.3d 38, 49 (Pa. Super. 2023) ("when the appellant has not included a Rule 2119(f) statement and the appellee has not objected, this Court may ignore the omission and determine if there is a substantial question . . . or enforce the requirements of Pa.R.A.P. 2119(f)[.]").

> A substantial question will be found where an appellant advances a colorable argument that the sentence imposed is either inconsistent with a specific provision of the Sentencing Code or is contrary to the fundamental norms which underlie the sentencing process. At a minimum, the Rule 2119(f) statement must articulate what particular provision of the code is violated, what fundamental norms the sentence violates, and the manner in which it violates that norm.

Commonwealth v. Zirkle, 107 A.3d 127, 132 (Pa. Super. 2014). We have consistently held that "a claim that a particular probation condition is not reasonable due to the lack of a nexus between the restriction and the rehabilitative needs of the defendant presents a substantial question." ***Seiden***, 349 A.3d at 33 (citation omitted); ***see also Commonwealth v. Fullin***, 892 A.2d 843, 853 (Pa. Super. 2006). Thus, Appellant has invoked our jurisdiction, and we will address the merits.

As a general matter, the sentencing court is required 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.A. § 9721(b). We review a sentencing court's determination for an abuse of discretion:

> Sentencing is a matter vested in the sound discretion of the sentencing judge, and a sentence will not be disturbed on appeal absent a manifest abuse of discretion. In this context, an abuse of discretion is not shown merely by an error in judgment. Rather, the appellant must establish, by reference to the record, that the sentencing court ignored or misapplied the law, exercised its judgment for reasons of partiality, prejudice, bias or ill will, or arrived at a manifestly unreasonable decision.

Seiden, 356 A.3d at 34 (citation omitted). In conducting our review, we must consider:

> (1) The nature and circumstances of the offense and the history and characteristics of the defendant.
>
> (2) The opportunity of the sentencing court to observe the defendant, including any presentence investigation.
>
> (3) The findings upon which the sentence was based.
>
> (4) The guidelines promulgated by the commission.

42 Pa.C.S.A. § 9781(d).

"[I]t is well-established that a person placed on probation does not enjoy the full panoply of constitutional rights otherwise enjoyed by those who have not run afoul of the law." ***Commonwealth v. Glawinski***, 310 A.3d 321, 326 (Pa. Super. 2024) (citation omitted). When imposing a probationary sentence, the sentencing court is required to impose "reasonable conditions" of probation as authorized by 42 Pa.C.S.A. § 9763. ***See*** 42 Pa.C.S.A. § 9754(b). Section 9763 states, in part:

> Conditions shall be assessed and ordered based on individualized circumstances. Following an individualized assessment of the defendant, including the defendant's history and the underlying crime or crimes committed, the court shall attach only those conditions that the court deems necessary and the least restrictive

> means available to promote the defendant's rehabilitation and protection of the public[.]

42 Pa.C.S.A. § 9763(b). The statute provides a non-exhaustive list of potential conditions. Pursuant to the catchall provision, the sentencing court is generally empowered to impose conditions that require a defendant "[t]o do other things reasonably related to rehabilitation." 42 Pa.C.S.A. § 9763(b)(15).

"Thus, while sentencing courts have discretion to impose conditions of probation, 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." ***Seiden***, 359 A.3d at 34 (citing ***Commonwealth v. Hall***, 80 A.3d 1204, 1215 (Pa. 2013)). While "there is no explicit statutory requirement that there be a 'nexus between the crime to which defendant was convicted' and the probationary condition," ***Laughman***, 314 A.3d at 574, "[o]ne aspect of the 'reasonableness' of the conditions of probation is that the probation condition must have a nexus to the crime convicted," ***Seiden***, 359 A.3d at 34.

Here, Appellant challenges the imposition of the following conditions:

> 6) You may not change your residence without permission from your Probation/Parole Officer. After changing your residence, you shall notify the Probation Department of your new address within 15 days. You shall permit your Probation/Parole Officer to visit your residence at any time to confirm compliance with conditions of supervision.
>
> 7) You must receive permission for overnight travel from your approved residence in excess of 48 hours. ALL travel

outside the Commonwealth of Pennsylvania requires compliance with Interstate Compact regulations and written travel permission from Probation Services. Requests for travel may be denied if payment on fines, costs, and restitution are delinquent.

* * * *

10) Refrain from overt behavior which threatens or presents clear and present danger to yourself or others.

11) You shall not possess, purchase, receive, sell, or transport any firearms (handguns, shotguns, rifles, or parts to construct a firearm), ammunition, imitation (look-alike) firearms, explosive devices, any other deadly weapons or instruments of crime.

* * * *

13) If you request transfer of supervision from Lebanon County to another county in the Commonwealth via Inter-County Transfer or to another state via Interstate Compact, you will be assessed an administrative fee to cover processing and administrative costs. This fee shall not be refunded upon rejection of the request for transfer by the receiving county or state. Upon acceptance of the transfer, you will be subject to the conditions of Lebanon County and the county or state that has accepted supervision.

14) Pennsylvania law (Act 147 of 2018) requires all offenders having a felony, misdemeanor of the first degree and other specified offenses submit to DNA testing prior to placement on a work release program, release from incarceration or discharge from supervision. Results of that testing will be forwarded to the Pennsylvania State Police.

15) If you are a required registrant under PA Megan's Law, you must provide confirmation within 72 hours that a change of address and/or employment was submitted to an approved registration and verification site.

Sentencing Order, 6/18/25, at v. In rejecting Appellant's request to not impose the above conditions, the trial court explained that "each of the

conditions is reasonable and is tailored to promote Appellant's rehabilitation or to protect the public." Trial Court Opinion, 9/22/25, at 4. We will address each condition in turn.

Appellant argues that conditions six (change of residence) and seven (overnight travel) do not serve any rehabilitative purpose because Appellant was not homeless or transient at the time of her arrest and there is nothing in the affidavit of probable cause that would warrant imposition of these conditions. ***See*** Appellant's Brief, at 9.

The trial court found that conditions six and seven "are reasonably related to rehabilitation" because it allows the probation officer to "ensure that [Appellant] is not living in, moving into, or planning a prolonged stay in an environment that is not conducive to a law-abiding lifestyle." Trial Court Opinion, 9/22/25, at 5. Additionally, the court noted the importance of a probation officer knowing where the individual who is under their supervision is located. ***Id.***

We agree with the trial court that conditions six and seven are reasonable. It is imperative that probation officers know the location of offenders under their supervision. Without knowledge of an offender's location, a probation officer cannot ensure compliance with the other conditions. Moreover, notification of a change in residence is an enumerated condition in Section 9763. ***See*** 42 Pa.C.S.A. § 9763(b)(11). Therefore, we discern no abuse of discretion and no relief is due.

Appellant contends that condition 10 (overt behavior) is "overly broad and encompasses matters which are constitutionally protected." Appellant's Brief, at 9. The trial court found that Appellant failed to elaborate on her contention that the condition is overbroad and determined that the condition was reasonable. Trial Court Opinion, 9/22/25, at 5. "Prohibiting Appellant from engaging in conduct which threatens or presents danger to herself or to others serves to deter future criminal conduct, encourage law-abiding conduct, and promotes the protection of the public." ***Id.*** at 5-6.

We agree with the trial court that condition 10 is reasonable to ensure Appellant's continued compliance with the law and promotes the protection of the public.

Appellant asserts that condition 11 (prohibiting possession of a firearm) is "inappropriate" because "[t]here is no nexus between the crime charged and this condition of probation." Appellant's Brief, at 10. "Appellant did not possess a firearm nor threaten anyone with a firearm" and such condition "inhibits her rights to exercise a constitutionally protected right." ***Id.***

The trial court explained that

> prohibiting Appellant from possessing or purchasing a firearm or other deadly weapons serves to deter future criminal conduct and thus promotes the protection of the public. Furthermore, the prohibition against firearms helps ensure the safety of probation officers, who may have to visit a probationer's residence during the course of their supervision.

Trial Court Opinion, 9/22/25, at 5. We discern no abuse of discretion. Appellant's argument that the condition lacks a nexus to the crime she was

convicted of is unavailing. Prohibiting possession of a weapon is an enumerated condition of probation in Section 9763. ***See*** 42 Pa.C.S.A. § 9763(b)(9). We are unable to locate, nor did Appellant provide, any case that found a weapon prohibition unreasonable even where the crime was not committed utilizing a weapon. Moreover, probationers have limited constitutional rights. ***See Glawinski***, ***supra***. Thus, based on our standard of review, we conclude that condition 11 is reasonable to facilitate Appellant's rehabilitation and promotes the protection of her probation officer and the public.

Lastly, Appellant argues that conditions 13-15 "are inaccurate, do not apply, and serve no nexus between the crime charged and the goals towards her rehabilitation." Appellant's Brief, at 10. Condition 13 requires Appellant to pay a fee if she requests transfer of her supervision. Because Appellant states she has no plans of moving, she contends that this condition is inapplicable to her.

The trial court rejected Appellant's argument and stated:

> Appellant cannot predict the future and there is no way for her to know whether she may wish to transfer her probation at some point during her supervision. If Appellant completes her supervision period as she anticipates – *i.e.*, without requesting a transfer, this [condition] will have no practical effect on her probation. If, on the other hand, Appellant chooses to transfer, [condition] 13 will absolutely be applicable to her.

Trial Court Opinion, 9/22/25. We discern no abuse of discretion. Condition 13 will only be applicable if Appellant, in the future, decides to transfer her

supervision. As the trial court aptly noted, Appellant cannot predict the future and cannot say for certain that she will never request a transfer. Further, the condition serves as more of a notice to a probationer that if supervision is transferred, they will be required to pay a fee.

Condition 14 requires offenders convicted of certain offenses to provide a DNA sample. Appellant contends that she is not required to submit a sample because she was convicted of a misdemeanor of the second degree. The trial court found that Appellant's conviction for access device fraud is an enumerated offense requiring her to submit a DNA sample. Trial Court Opinion, 9/22/25, at 6-7.

We find no abuse of discretion. "A person who is convicted . . . for a felony sex offense **or other specified offense** . . . shall have a DNA sample collected[.]" 44 Pa.C.S.A. § 2316(a) (emphasis added). The definition of "other specified offense" includes 18 Pa.C.S.A. § 4106, access device fraud, and Chapter 39 of Title 18, relating to theft and related offenses. 44 Pa.C.S.A. § 2303 (definitions). Appellant pleaded guilty to both offenses. Therefore, despite her contention, condition 14 is applicable to her and she is required to submit a DNA sample.

Condition 15 sets forth the requirements for offenders who are subject to registration under the Sexual Offenders Registration and Notification Act ("SORNA"). Although the trial court agreed that the condition is not applicable

to Appellant, it declined to exclude it from Appellant's conditions of probation because it was not applicable to her. Trial Court Opinion, 9/22/25, at 7.

We discern no abuse of discretion. The condition is included in the general rules of probation and explicitly states that it only applies to required registrants. Appellant is not a required registrant; therefore, it has no impact on her supervision.

Judgment of sentence affirmed.

Judgment Entered.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/06/2026