

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :

VS. : CP-14-CR-2421-2011

CP-14-CR-2422-2011

GERALD A. SANDUSKY :

**POST SENTENCE RIGHTS**

**I. Post Sentence Motion Addressed to the Sentencing Court**

It is not necessary to first file a post sentence motion with this Court to be able to appeal to a higher court. However, you have the right to file such a motion if you choose to do so. If you do file a post sentence motion with this Court, the following provisions apply:

- A. A post sentence motion must be in writing.
- B. A post sentence motion must be filed with the Clerk of Court within ten (10) days of sentencing.
- C. A post sentence motion filed after a guilty verdict may raise:
  1. A motion for judgment of acquittal;
  2. A motion in arrest of judgment;
  3. A motion for a new trial;
  4. A motion to modify sentence;
  5. A motion challenging the legality of the sentence;
  6. A motion challenging the jurisdiction of court.
- D. If you are unable to afford an attorney and if you financially qualify, a post sentence motion may be filed without payment of costs (*in forma pauperis*) and the Court may appoint counsel to represent you.
- E. If a post sentence motion is filed, the sentencing court must decide the motion within one hundred twenty (120) days (unless that deadline is extended by the Court for a maximum of thirty (30) additional days on request of the defendant and for good cause). If the decision on a post sentence motion is not made within this time period, the post sentence motion will be denied automatically and the only potential remedy would be through appeal to a higher court.

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CENTRE COUNTY, PA

- F. If the maximum sentence is two (2) years or longer, the filing of a post sentence motion will ordinarily not delay the start of the sentence, although the judge does have discretion to allow bail pending appeal to a higher court.

## II. Appeal to a Higher Court


- A. An appeal to a higher court in this case, following the imposition of a sentence, is taken to the Pennsylvania Superior Court. The appeal is initiated by the filing of a *Notice of Appeal* with the Clerk of the Court of Centre County, with notice to the trial judge, the court reporter and the prosecutor.
- B. If a post sentence motion is filed, the appeal to the Superior Court cannot begin until the post sentence motion is decided. The disposition of the post sentence motion occurs when the trial judge rules on the motion, or when the motion has been automatically denied because the trial judge did not rule on the motion within the time limits described in paragraph 1.E. The *Notice of Appeal* must be filed within thirty (30) days of the disposition of the post trial motions.
- C. If no post sentence motion is filed, the *Notice of Appeal* must be filed within thirty (30) days of the date of the sentencing.
- D. Issues which can be raised on appeal after a guilty verdict may include:
- Challenges to issues raised in pre-trial motions (for example, Suppression motions, Motion in Limine);
  - Challenges raised in the post sentence motion;
  - A challenge involving voir dire;
  - Whether the verdict was against the weight of the evidence;
  - Whether the verdict was based on sufficient evidence;
  - A challenge to improper conduct by counsel, the jury, or the Court;
  - Whether the defendant's constitutional rights were violated;
  - A challenge to exclude improper evidence;
  - Whether there was ineffective assistance of counsel;
  - Any and all properly preserved issues in the trial court;
  - Whether the sentencing court abused its discretion in imposing the sentence;
  - Whether the trial court erred in the denial of any motion to withdraw a plea of guilty or of no contest;
  - Whether the trial court erred in disposing of a motion to modify sentence;
  - or
  - A challenge to the legality of the sentence or to the jurisdiction of the court.
- E. Issues raised on appeal do not also be need to have been raised in a post sentence motion, as long as they were preserved by motion or objection before or during the sentencing hearing; however, challenges to the legality of the sentence or jurisdiction of the court can be raised at any time.

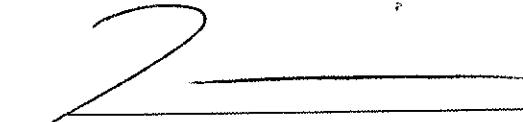
- F. If you are unable to afford an attorney and if you financially qualify, an appeal may be filed without payment of costs (*in forma pauperis*) and the Court may appoint counsel to represent you.
- G. If the maximum sentence is two (2) years or longer, the filing of an appeal to a higher court will ordinarily not delay the start of the sentence, although the court does have discretion to allow bail pending appeal to a higher court.

I acknowledge receiving a copy of the above document consisting of three (3) pages and have read it.

  
Defendant

We have reviewed the above procedures with our client and have assured ourselves that he understands these post sentence procedures.

  
Joseph Amendola, Esq.

  
Karl Rominger, Esq.

Date: 10-9-12