

**Pennsylvania Commission on Sentencing
Caselaw Highlights (PA Reporter through May 23, 2008)**

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|--|----------|--------------|------------|----------|----------|-------------------------|---|
| | Koskey | 812 A.2d 509 | 12/18/2002 | PA | Sentence | Intermediate Punishment | Trial court was without discretion to impose intermediate form of punishment on defendant, following his guilty plea to charge of driving under suspension (DUS) as a result of DUI; at time that defendant was sentenced, DUS statute allowed sentencing court to impose sentence of intermediate punishment for defendants convicted of DUI, but it did not create such exception for DUI-related DUS convictions. 42/9763, 75/1543(b), 3731. |
| | Koskey | 812 A.2d 509 | 12/18/2002 | PA | Sentence | Intermediate Punishment | Alternate housing was a form of intermediate punishment, and thus, prohibition against use of IP for DUI-related driving under suspension (DUS) did not permit trial judge to sentence defendant convicted of DUS/DUI-related to alternative housing. 75/1543(b)(1), 42/9763, 42 Pa.Code 303.12(4)(i). |
| | Williams | 941 A.2d 14 | 1/3/2008 | PA Super | Sentence | Intermediate Punishment | Sentencing court had discretion to impose county intermediate punishment program (IPP) for defendant's conviction for second offense of driving under the influence of alcohol (DUI) so long as program was qualified county IPP program and defendant was qualified "eligible offender" under IPP statute, even though statute governing DUI penalties specifically required fixed terms of imprisonment for repeat DUI offenders. 42 Pa.C.S.A. §§ 9721, 9763(a), (c)(1, 2), 9804(a), (b)(1, 2, 4, 5), (g); 75 Pa.C.S.A. § 3802(a)(1). |
| | Williams | 941 A.2d 14 | 1/3/2008 | PA Super | Sentence | Intermediate Punishment | Court may consider only "eligible offenders" for county intermediate punishment program (IPP) sentencing. 42 Pa.C.S.A. § 9804(b). Grant or denial of a defendant's request for county intermediate punishment program (IPP) is largely within the sound discretion of the sentencing court. 42 Pa.C.S.A. § 9804. |
| | Poncala | 915 A.2d 97 | 12/8/2006 | PA Super | Sentence | Intermediate Punishment | In adopting the statute governing county intermediate punishment programs (IPPs), the Legislature's intent was to give judges another sentencing option that would lie between probation and incarceration with respect to sentencing severity, to provide a more appropriate form of punishment/treatment for certain types of nonviolent offenders, to make the offender more accountable to the community, and to help reduce the county jail overcrowding problem while maintaining public safety. 42 Pa.C.S.A. § 9804. |
| | Young | 895 A.2d 40 | 3/6/2006 | PA Super | Sentence | Intermediate Punishment | Original sentence of two, 36-month concurrent terms of intermediate punishment for identity theft and theft by deception was illegal at its inception, as it did not include term of restrictive intermediate punishment. 42 Pa.C.S.A. § 9804(a). |

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| | Williams | 868 A.2d 529 | 1/19/2005 | PA Super | Sentence | Intermediate Punishment | Trial court acted within its discretion in sentencing defendant to intermediate punishment for theft by unlawful taking and criminal conspiracy, even though defendant had prior convictions for robbery and indecent assault, where prior convictions were 17 years old, current offenses involved stealing \$100 bench while drunk, and defendant was 43-year-old married man, had full-time employment, admitted to alcohol problem, and sought treatment. 42 Pa.C.S.A. § 9801 et seq. |
| | Williams | 868 A.2d 529 | 1/19/2005 | PA Super | Sentence | Intermediate Punishment | Under the County Intermediate Punishment Act, which provides for intermediate punishment for an "eligible offender," which does not include an offender convicted of certain enumerated offenses, an offender is ineligible for intermediate punishment when he or she is being sentenced for one of the enumerated offenses and not when he or she merely has a prior conviction for one of the enumerated offenses. 42 Pa.C.S.A. § 9801 et seq. |
| | Williams | 868 A.2d 529 | 1/19/2005 | PA Super | Sentence | Intermediate Punishment | A trial court's determination of whether an offender demonstrates a present or past pattern of violent behavior, as a factor to consider in deciding whether to impose intermediate punishment, is subject to an abuse-of-discretion standard. 42 Pa.C.S.A. § 9801 et seq. |
| | Williams | 868 A.2d 529 | 1/19/2005 | PA Super | Sentence | Intermediate Punishment | Any error in trial court's failure to order diagnostic assessment of dependency on alcohol or other drugs before sentencing defendant to intermediate punishment for theft by unlawful taking and criminal conspiracy was harmless; drug and alcohol factors were admitted to by defendant and considered by trial court, and appropriate evaluation and treatment was ordered. 42 Pa.C.S.A. § 9801 et seq.; 204 Pa.Code § 303.12(a)(ii). |
| | Moody | 843 A.2d 402 | 2/13/2004 | PA Super | Sentence | Intermediate Punishment | Even if determination that defendant was a sexually violent predator (SVP) qualified as "intermediate punishment" under "county intermediate punishment program," defendant would not be an eligible offender because he was convicted of a number of offenses which were excluded from an intermediate punishment program. 42 Pa.C.S.A. § 9801 et seq. A determination that a defendant is a sexually violent predator (SVP) is non-punitive; therefore, it cannot fall under a "county intermediate punishment program." 42 Pa.C.S.A. § 9801 et seq. |

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| | Pinko | 811 A.2d 576 | 10/22/2002 | PA Super | Sentence | Intermediate Punishment | Sentence of 60 months of intermediate punishment, all restrictive at county work release center or, if appropriate, to inpatient treatment for defendant's mental illness complied with provisions on imposition of intermediate punishment sentences and, thus, was not illegal, where, unlike provisions governing partial confinement, imposition of minimum and maximum sentence was not directed with regard to intermediate punishment sentence. 42/9721(a), 9755(b), 9763, 9801 et seq. |
| | Wegley | 791 A.2d 1223 | 2/6/2002 | PA Super | Sentence | Intermediate Punishment | When a sentence of intermediate punishment includes a period of house arrest, by official court order the convicted person is detained at home, and the means of ensuring that detention is electronic monitoring. Breach of these terms of the intermediate punishment sentence by the convicted person results in the unlawful removal of himself from official detention within the meaning of 18 PaCSA 5121(a). |
| | Syno | 791 A.2d 363 | 1/15/2002 | PA Super | Sentence | Intermediate Punishment | County adult probation department's denial of defendant's application to intermediate punishment program did not preclude trial court from exercising its discretion to sentence defendant to IPP as an alternative sentence; intermediate punishment statute did not state that eligibility of a defendant was to be determined by department, and there was no statutory provision that empowered department with authority to grant or deny alternative sentencing to a defendant. |
| | Mendez | 749 A.2d 511 | 3/21/2000 | PA Super | Sentence | Intermediate Punishment | Defendant was improperly credited for intermediate punishment of 21 days he spent at an inpatient drug & alcohol rehabilitation program, and thus, sentence for DUS that was less than the mandatory minimum sentence due to the credit was illegal, where the suspension was a result of a conviction for DUI. <i>Conahan</i> applies only to DUI. |
| | Arest | 734 A.2d 910 | 7/8/1999 | PA Super | Sentence | Intermediate Punishment | Defendant's sentence of intermediate punishment in form of house arrest without drug and alcohol treatment component was an illegal sentence for DUI, in that sentence was in direct violation of express statutory requirement. |
| | Philipp | 709 A.2d 920 | 4/14/1998 | PA Super | Sentence | Intermediate Punishment | Sentencing Guidelines do not apply to sentences imposed as a result of intermediate punishment revocation. |
| | Gantt | [#1555 Pittsburgh 1995] | 12/31/1996 | PA Super | Sentence | Intermediate Punishment | MEMORANDUM: Court held that the legislature intended that prior convictions for the listed crimes under 42 PaCS9729 renders one ineligible for intermediate punishment. |
| | Harrison | 661 A.2d 6 | 6/14/1995 | PA Super | Sentence | Intermediate Punishment | Home confinement does not satisfy requirement of mandatory minimum sentence of 90 days of "imprisonment" for driving under suspension/DUI-related. |

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| | Yale | 657 A.2d 987 | 4/25/1995 | PA Super | Sentence | Intermediate Punishment | Defendant convicted of DUI and DUS/DUI subject to mandatory imprisonment of 48 hours for DUI and 90 days for DUS, precluding use of home confinement for the DUS. Absent an express restriction [e.g.-IP alternative for DUI], mandatory minimum applies. |
| | DiMauro | 642 A.2d 507 | 5/24/1994 | PA Super | Sentence | Intermediate Punishment | Electronic monitoring under an Intermediate Punishment sentence not permitted for aggravated assault as it is an ineligible offense. |