

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

	Benn	675 A.2d 261	4/16/1996	PA	Sentence	ARD	DA erred in denying defendant admission into ARD program based on previous term of Probation Without Verdict. DA's may not rely on prohibited considerations in exercising discretion.
McCracken	DOT	660 A.2d 700	6/15/1995	PA Cmwlth	Sentence	ARD	For purposes of 18 Pa.C.S.6310.4, ARD constitutes a "preadjudication program" upon which a license suspension could be required. This includes a one year license suspension for underage drinking.
	Sohnleitner	884 A.2d 307	9/23/2005	PA Super	Sentence	ARD	Trial court cannot admit defendant to accelerated rehabilitative disposition (ARD) program without Commonwealth's motion unless there is abuse of district attorney's discretion; this process ensures joint effort between prosecutor and trial court before defendant is included in ARD program. 75 Pa.C.S.A. § 1552.
	Simmer	814 A.2d 696	12/23/2002	PA Super	Sentence	ARD	Defendant's voluntary entry into ARD program with respect to charge of DUI constituted a waiver of defendant's right to later assert statute prohibiting prosecution in certain cases due to former prosecution as a bar to prosecution of DUI offense upon defendant's removal from ARD program. 18/110(1)(ii).
	Burke	801 A.2d 1257	6/21/2002	PA Super	Sentence	ARD	Defendant's bail obligation ended with the agreement to accept defendant into ARD, and because bail terminated at that point, there was, legally, nothing for defendant to forfeit; acceptance into ARD constitutes a full and final disposition. Rule 313(E).
	Cline	800 A.2d 978	6/6/2002	PA Super	Sentence	ARD	Commonwealth should be entitled to withdraw ARD recommendation at any point before the trial court rules on it.. Trial court impermissibly infringed on the Commonwealth's prosecutorial functions when it forced the Commonwealth to retain its original ARD recommendation and refused to allow Commonwealth to revoke its recommendation.
	Szebin	785 A.2d 103	10/12/2001	PA Super	Sentence	ARD	Proceedings against defendant with respect to DUI charge following defendant's violation of terms of ARD program did not constitute successive prosecution, and thus, could proceed to trial on DUI charge without violating double jeopardy clause and statute addressing when prosecution is barred by former prosecution for different offense.
	Gano	781 A.2d 1276	8/13/2001	PA Super	Sentence	ARD	While lower court may reject ARD recommendation based upon its opinion of what is beneficial to society, such rejection is subject to review for manifest abuse of judicial discretion.

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	Gano	756 A.2d 680	7/7/2000	PA Super	Sentence	ARD	Trial court erred when it considered defendant's employment as police officer as a significant aggravating factor, rather than a mitigating factor, for purposes of determining whether to allow defendant who had been arrested for DUI into ARD program, and because the court considered defendant's status an officer as an aggravating factor, court abused its discretion in denying ARD; the crime itself was not definitionally aggravated because defendant was officer.
	Jagodzinski	739 A.2d 173	9/14/1999	PA Super	Sentence	ARD	District Attorney could decide not to recommend defendant, arrested for DUI, for ARD based on defendant's application answer that he had a foreign conviction for possession of cocaine, though the foreign records were sealed.
	Kraft	739 A.2d 1063	9/14/1999	PA Super	Sentence	ARD	Defendant's nolo contendere plea to charge of harassment by stalking, reimposed due to defendant's violation of the 'good behavior' requirement for participation in an ARD program, precluded appellate review of his removal from the ARD program.
	Pypiak	728 A.2d 970	4/20/1999	PA Super	Sentence	ARD	Recommendation that a defendant charged with DUI be admitted to ARD program is solely the province of the prosecutor; trial court cannot admit a defendant without the commonwealth's motion unless there is abuse of the DA's discretion.
	Lebo	713 A.2d 1158	6/24/1998	PA Super	Sentence	ARD	County probation office's imposition of new conditions on defendant's ARD after defendant was already admitted to program was permissible; trial court's order, by requiring defendant to accept supervision of probation office, required defendant to accept
	Belville	711 A.2d 510	4/9/1998	PA Super	Sentence	ARD	Consideration of prior ARD as a basis for refusing to offer a subsequent ARD is not improper even where the ARD is over seven years old.
	Jones	650 A.2d 60	10/3/1994	PA Super	Sentence	ARD	Defendant's falsification of criminal history statement and failure to report new charge while under ARD supervision may be appropriate basis for ARD violation, even if all conditions completed.
	Rudy	642 A.2d 1130	6/8/1994	PA Super	Sentence	ARD	Termination from ARD program due to violation of conditions is not appealable and is not a violation of due process.