

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

Lawrence	DOC	941 A.2d 70	10/25/2007	PA Cmwlth	Sentence	Concurrent/ Consecutive	Sentencing court's imposition of a new concurrent state sentence on parolee while parolee was serving backtime on the original state sentence was illegal under section of the Parole Act requiring parolee to serve balance of originally imposed sentence before the commencement of a new term, and thus parolee could not serve the new sentence before he satisfied his original state sentence. 61 P.S. § 331.21a(a)(1).
	DOC	894 A.2d 219	3/10/2006	PA Cmwlth	Sentence	Concurrent/ Consecutive	Sentencing order directing defendant's new state robbery sentence to run concurrent with his federal sentence was legal as to enable its enforcement by means of habeas relief, specifically by awarding inmate credit against new state sentence for time served on concurrent federal sentence, despite provision of Parole Act prohibiting service of new state sentences before satisfaction of prior state sentences, where Sentencing Code expressly empowered sentencing judges to grant credit on state sentences for time served under an existing out-of-state or federal sentence. 42 Pa.C.S.A. § 9761(b); 61 P.S. § 331.21a.
	W.H.M., Jr.	932 A.2d 155	8/22/2007	PA Super	Sentence	Concurrent/ Consecutive	In imposing sentence, a trial judge has the discretion to determine whether, given the facts of a particular case, a given sentence should be consecutive to, or concurrent with, other sentences being imposed.
	G.D.M., Sr.	926 A.2d 984	6/7/2007	PA Super	Sentence	Concurrent/ Consecutive	Imposition of three consecutive sentences for an aggregate term of 8 1/2 to 17 years' imprisonment upon defendant convicted of indecent assault, endangering the welfare of children, and corruption of minors was not inappropriate; the court clearly considered numerous factors in sentencing defendant in addition to the nature of the instant offenses, and the foremost among these was not even the nature of the crimes but, rather, the clear danger defendant posed to other children in the community.
	Marts	889 A.2d 608	12/14/2005	PA Super	Sentence	Concurrent/ Consecutive	Defendant, to the extent that he complained that his sentence on two of four robberies were imposed consecutively rather than concurrently, failed to raise substantial question as to discretionary aspect of his sentence as to warrant review on the merits; statute afforded sentencing court discretion to impose its sentence concurrently or consecutively to other sentences being imposed at same time or to sentences already imposed. Rules App.Proc., Rule 2119, 42 Pa.C.S.A.; 42 Pa.C.S.A. §§ 9721, 9781.
	McWilliams	887 A.2d 784	11/18/2005	PA Super	Sentence	Concurrent/ Consecutive	A court's decision to impose consecutive, rather than concurrent, sentences does not alone present a substantial question for appellate review.

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

	Fiascki	886 A.2d 261	10/24/2005	PA Super	Sentence	Concurrent/ Consecutive	Appellate courts often defer to the trial court's decision to impose consecutive sentences, but the trial court does not have unfettered discretion in this regard.
	Raphael	879 A.2d 1264	7/19/2005	PA Super	Sentence	Concurrent/ Consecutive	Trial court's imposition of consecutive sentences upon revocation of defendant's probation, rather than concurrent sentences called for under plea agreement, did not render sentences illegal; trial court was authorized to impose sentences at revocation hearing that were available at time of initial sentencing. 42 Pa.C.S.A. § 9771.
	Johnson	873 A.2d 704	3/22/2005	PA Super	Sentence	Concurrent/ Consecutive	Imposition of consecutive as opposed to concurrent sentences is solely within the discretion of a trial court and does not in and of itself even rise to the level of a substantial question that a sentence is not appropriate under the Sentencing Code, which must exist in order for a defendant to appeal the discretionary aspects of the sentence.
	Dodge	859 A.2d 771	8/30/2004	PA Super	Sentence	Concurrent/ Consecutive	Appellate court's statutory obligation to ensure that a trial court does not violate the Sentencing Code by imposing a clearly unreasonable standard range sentence embraces a duty to examine, in appropriate circumstances of a particular case, whether the imposition of consecutive sentences in the standard range violates the requirements and goals of the Code and of the application of the guidelines. 42 Pa.C.S.A. § 9781(c)(2).
	Dodge	859 A.2d 771	8/30/2004	PA Super	Sentence	Concurrent/ Consecutive	A mere allegation that consecutive sentences are excessive or clearly unreasonable will not be sufficient to raise a substantial question warranting appellate review; rather, appellant must demonstrate a substantial question that the sentencing court has violated the letter and spirit of the Sentencing Code, i.e., that the sentence is so manifestly excessive as to constitute too severe a punishment.
	Boyer	856 A.2d 149	8/3/2004	PA Super	Sentence	Concurrent/ Consecutive	The imposition of consecutive, as opposed to concurrent, sentences is solely within the discretion of the trial court and does not, in and of itself, even rise to the level of a substantial question, so as to allow appeal of discretionary aspects of sentence.
	Larkins	829 A.2d 1203	7/28/2003	PA Super	Sentence	Concurrent/ Consecutive	Trial court acted within its discretion in ordering life sentence for first degree murder to run consecutively to 7 to 14 year term for third degree murder.
	Mouzon	828 A.2d 1126	7/1/2003	PA Super	Sentence	Concurrent/ Consecutive	In setting sentence, a court has discretion not only to deviate from guideline ranges, but also to run the sentence concurrently with or consecutively to other sentences being imposed.

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

	Payne	797 A.2d 1000	4/24/2002	PA Super	Sentence	Concurrent/ Consecutive	Sentencing defendant, who was first charged with robbery and then charged with prior homicide but was convicted first of homicide and subsequently pleaded guilty to robbery, to life for homicide conviction followed by two-to-four year sentence for robbery conviction was not illegal, given that sentences were imposed at same time.
	L.N.	787 A.2d 1064	12/12/2001	PA Super	Sentence	Concurrent/ Consecutive	Imposition of consecutive sentence does not present substantail question regarding discretionary aspects of sentencing, for purpose of determining whether defendant may appeal.
	Ortiz	745 A.2d 662	1/19/2000	PA Super	Sentence	Concurrent/ Consecutive	Requirement that parolees serve back time for original sentence consecutive to the sentence imposed for the offense upon which the parole revocation is based is equally applicable to county parolees as to state parolees.
	Wellor	731 A.2d 152	5/17/1999	PA Super	Sentence	Concurrent/ Consecutive	In imposing sentence, a trial judge has the discretion to determine whether, given the facts of a particular case, a given sentence should be consecutive to, or concurrent with, other sentences being imposed.
	Gheen	688 A.2d 1206	2/11/1997	PA Super	Sentence	Concurrent/ Consecutive	In resentencing defendant after his probation was revoked, the trial court did not err in sentencing defendant to consecutive prison terms, even though the original sentence provided for concurrent terms of probation, since plea had no such provision.
	Yager	685 A.2d 1000	11/7/1996	PA Super	Sentence	Concurrent/ Consecutive	Although defendant's colloquy with court regarding sentencing was defective as he was not told on the record that he could receive consecutive sentences, no manifest injustice where defendant had been advised of possibility by his attorney.
	Minnich	662 A.2d 21	6/13/1995	PA Super	Sentence	Concurrent/ Consecutive	Imposition of multiple consecutive sentences for multiple fatalities caused by a single act is rationally related to purpose of homicide by vehicle statute and therefore constitutional; no violation of equal protection or due process.
	Anderson	643 A.2d 109	5/26/1994	PA Super	Sentence	Concurrent/ Consecutive	Where court accepts a guilty plea under a negotiated plea for sentence concurrent to prior sentence, and imposes concurrent sentence under agreement, court remains bound to plea bargain, and must impose concurrent sentences in probation revocation.