

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

	Hardy	939 A.2d 974	12/27/2007	PA Super	Sentence	Discretionary Aspects	Trial court did not abuse its discretion by sentencing former chief executive officer (CEO) of charity, who had pled guilty to theft by deception and forgery after it was discovered that she had used her position to defraud the charity of \$56,000, to 36 to 72 months of imprisonment, though the sentence exceeded the standard range for the crimes she committed, as the defendant had exploited a high appointment of trust, did so repeatedly for nearly ten years, and did not appear to be genuinely remorseful. U.S.C.A. Const.Amend. 6; 42 Pa.C.S.A. § 9721(b).
	Hardy	939 A.2d 974	12/27/2007	PA Super	Sentence	Discretionary Aspects	In an indeterminate scheme, which does not delineate legal maximum sentences but instead simply sets forth advisory sentences, a judge may depart from the scheme after exercising his or her discretion based on sentencing facts proven by a preponderance of the evidence.
	Zurburg	937 A.2d 1131	12/3/2007	PA Super	Sentence	Discretionary Aspects	Sentence of aggregate term of nine to 40 years of imprisonment for convictions for criminal solicitation with intent to commit two counts each of rape, statutory sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, indecent assault, indecent exposure, and corruption of minors did not violate fundamental norms of sentencing; sentence was based upon egregious nature of defendant's actions in soliciting children, heinous nature of crimes, consideration of defendant's psychological background and concern for his mental state, and need to protect society and community at large.
	Zurburg	937 A.2d 1131	12/3/2007	PA Super	Sentence	Discretionary Aspects	Sentence of aggregate term of nine to 40 years of imprisonment for convictions for criminal solicitation with intent to commit two counts each of rape, statutory sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, indecent assault, indecent exposure, and corruption of minors did not shown gross disproportionality between sentence and crimes; sentence was based upon egregious nature of defendant's actions in soliciting children, heinous nature of crimes, consideration of defendant's psychological background and concern for his mental state, and need to protect society and community at large.
	Trippett	932 A.2d 188	8/24/2007	PA Super	Sentence	Discretionary Aspects	Defendant failed to raise substantial question that his sentence was excessive; in his argument statement, defendant merely stated that sentence was excessive, and defendant did not set forth specific provision of sentencing code or fundamental norm underlying sentencing process that trial court violated in imposing sentence. Rules App.Proc., Rule 2119(f), 42 Pa.C.S.A.

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	Robinson	931 A.2d 15	8/2/2007	PA Super	Sentence	Discretionary Aspects	Following defendant's conviction for three counts of corruption of minors and two counts of indecent assault, trial court acted within its discretion in imposing statutory maximum term of two and one-half to five years for one of the counts of corruption of minors, where trial court imposed highly mitigated sentences, or no sentence at all, on the other charges, aggregate sentence of three to six years was significantly lower than the aggregate would have been if the court had imposed consecutive, standard-range sentences for all five charges, defendant had low prospects for rehabilitation and refused to show remorse, and case involved incest and would have lasting effect on young victim.
	Curran	932 A.2d 103	7/31/2007	PA Super	Sentence	Discretionary Aspects	Sentence of six months to 12 months in prison for third-degree misdemeanor furnishing alcohol to minors, which was maximum sentence allowed for a third-degree misdemeanor, was reasonable, even though defendant argued that trial court failed to consider that she was a 63-year-old woman with no prior criminal record who cooperated fully throughout proceedings, accepted responsibility for her role in incident, and expressed remorse; defendant furnished seven cases of beer to a minor and had previously supplied alcohol to that minor, and two victims died as an indirect result of defendant's actions when their vehicle struck a tree as a result of driver's consumption of alcohol furnished by defendant. 18 Pa.C.S.A. § 6310.1.
	Hornaman	920 A.2d 1282	3/23/2007	PA Super	Sentence	Discretionary Aspects	Defendant did not, in his concise statement of reasons relied on for allowance of appeal as to discretionary aspects of his aggregate sentence for terroristic threats and simple battery, show that there was a substantial question that his sentence was not appropriate under Sentencing Code, and thus appellate review of merits of defendant's challenge to discretionary aspects of his sentence was unwarranted; defendant baldly argued that his sentence, which was minimum standard range guideline sentence, was "manifestly excessive" and "clearly unreasonable," and although defendant argued that sentencing court relied on an incorrect fact, defendant accepted that fact at sentencing hearing. Rules App.Proc., Rule 2119(f), 42 Pa.C.S.A.; 42 Pa.C.S.A. § 9781(b).
	Littlehales	915 A.2d 662	1/5/2007	PA Super	Sentence	Discretionary Aspects	Sentence for theft by deception had to be vacated and remanded for resentencing, where trial court failed to make requisite statement on record that "justifiable cause" existed for its imposition. 18 Pa.C.S.A. § 3922; 42 Pa.C.S.A. § 9717(a).

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	Littlehales	915 A.2d 662	1/5/2007	PA Super	Sentence	Discretionary Aspects	In the context of sentencing, 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.
	Pass	914 A.2d 442	12/12/2006	PA Super	Sentence	Discretionary Aspects	Defendant, alleging that his sentence was excessive because the trial court ordered sentence imposed upon revocation of probation and parole to run consecutively to sentence imposed in another case, failed to raise substantial question as to discretionary aspect of his sentence as to warrant review on the merits.
	Gould	912 A.2d 869	12/1/2006	PA Super	Sentence	Discretionary Aspects	Defendant failed to raise substantial question that his sentence of three to six years imprisonment for drug offenses was vindictive and excessive, as would permit appellate court to accept appeal as to issue; defendant's brief neither indicated provision of Sentencing Code that trial court purportedly violated, nor set forth violation of fundamental norm, and thus, defendant did not properly challenge discretionary aspects of his sentence. 18 Pa.C.S.A. § 7508(a)(2)(i). When a sentence is within the statutory limits, Superior Court must review each excessiveness claim on a case-by-case basis to determine whether a substantial question has been presented.
	P.L.S.	894 A.2d 120	2/2/2006	PA Super	Sentence	Discretionary Aspects	Aggravated sentences imposed on defendant, convicted of rape, statutory sexual assault, indecent assault, corruption of a minor, and endangering the welfare of a child, and determined to be sexually violent predator (SVP), were reasonable; sentence was authorized by jury's verdict, and valid reasons were articulated of record by sentencing court for its departure from guidelines, since society was placed at greater risk due to defendant's abuse of three children rather than one child, and defendant's propensities and justification that he offered for his behavior made him a poor candidate for rehabilitation. 42 Pa.C.S.A. § 9781(c)(3).
	P.L.S.	894 A.2d 120	2/2/2006	PA Super	Sentence	Discretionary Aspects	Evidence, including testimony of psychologist, was sufficient to link defendant, convicted of rape, statutory sexual assault, indecent assault, corruption of a minor, and endangering the welfare of a child and determined to be sexually violent predator (SVP), to uncharged sexual abuse of two other family members, as required for sentencing court to consider uncharged prior conduct during sentencing; defendant admitted truth of two victims' accusations in his conversation with psychologist, and evidence linking defendant to other crimes stood unrefuted. 204 Pa.Code § 303.5(d).

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	P.L.S.	894 A.2d 120	2/2/2006	PA Super	Sentence	Discretionary Aspects	In exercising its discretion, a sentencing court may deviate from the guidelines, if necessary, to fashion a sentence which takes into account the protection of the public, the rehabilitative needs of the defendant, and the gravity of the particular offenses as it relates to the impact on the life of the victim and the community, so long as he also states of record the factual basis and specific reasons which compelled him to deviate from the guideline range.
	P.L.S.	894 A.2d 120	2/2/2006	PA Super	Sentence	Discretionary Aspects	Sentencing court offered significant support, other than uncharged conduct, for sentencing in excess of guidelines in proceeding in which defendant was convicted of rape, statutory sexual assault, indecent assault, corruption of a minor, and endangering the welfare of a child and determined to be sexually violent predator (SVP); defendant sexually abused his victim, the daughter of his paramour, nearly weekly for two years, effect of ongoing sexual abuse was substantial and long-term, and defendant attempted to justify his actions on basis that they were in retaliation against victim's mother.
	Ferguson	893 A.2d 735	2/1/2006	PA Super	Sentence	Discretionary Aspects	Trial court did not abuse its discretion in sentencing defendant to period of total confinement after probation revocation hearing; defendant was serving sentence of intermediate restrictive punishment for six felony drug offenses when his probation was revoked, court's statements at sentencing indicated that its primary concern was recidivism and reflected concern about defendant's failure to complete drug treatment program, and reasons given were sufficient for court to sentence defendant to period of total confinement of 27 to 72 months under section of statute governing modification or revocation of order of probation. 42 Pa.C.S.A. § 9771.
	Ferguson	893 A.2d 735	2/1/2006	PA Super	Sentence	Discretionary Aspects	Trial court's probation sentence of 36 years was manifestly excessive and constituted too severe a punishment; relative impact of defendant's drug crimes on community was not as great as drug-related activity involving violence, impact of defendant's theft offenses on community and victims was not of an egregious nature and involved a small amount of money, court did not address how a 36 year period of probation would contribute to defendant's rehabilitative needs, and under court's sentence defendant, who committed crimes as a teenager, would be on probation until he was almost 60 years old. 42 Pa.C.S.A. § 9721.

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	Fullin	892 A.2d 843	2/1/2006	PA Super	Sentence	Discretionary Aspects	Trial court did not abuse its discretion in including as a condition of parole and probation supervision of defendant, convicted of endangering the welfare of children and reckless driving, that he be prohibited from operating any motor vehicle for the entire five year period of his supervision; defendant crashed his vehicle while traveling 112 miles per hour and rendered his son a paraplegic, and prohibiting a person who drove at excessive speeds from driving for a period of time was rationally related to rehabilitative goal of impressing upon him the importance of responsible driving, particularly when driving his children. 18 Pa.C.S.A. § 4304(b); 42 Pa.C.S.A. § 9754(c); 75 Pa.C.S.A. § 3736(a).
	Marts	889 A.2d 608	12/14/2005	PA Super	Sentence	Discretionary Aspects	Trial court did not commit a manifest abuse of discretion in sentencing defendant to aggregate 10 to 20-year sentence for five counts of robbery, four counts of criminal conspiracy, two counts of recklessly endangering another person, and one count of theft from a motor vehicle; presumption arose that court weighed relevant information contained in presentence report along with any mitigating sentencing factors, court placed great emphasis on fact that two months after pleading guilty, defendant "jumped bail" and committed another violent crime out-of-state, and court considered individual circumstances concerning defendant and many crimes he committed. 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	Discretionary Aspects	Sentence of 494 to 988 months' imprisonment for rape, statutory rape, aggravated indecent assault, indecent assault, and corruption of minor convictions was not manifestly excessive; sentence was in standard range of guidelines for seven of the convictions, in aggravated range for three convictions, and there was no further sentence on two corruption of minors' charges, defendant was on parole for another statutory rape at time he molested two separate six and one half year old victims, and defendant had completed sexual offenders treatment program while he was incarcerated for prior offense, which apparently was not successful. 42 Pa.C.S.A. § 9791et seq.

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	Fiascki	886 A.2d 261	10/24/2005	PA Super	Sentence	Discretionary Aspects	Trial court was within its discretion in comparing victims of defendant's securities fraud scheme to victims of other forms of thievery, in imposing sentence for defendant's conviction by guilty plea; sentencing transcript reflected that victims lost retirement money or college funds set aside for their children, many were no longer able to live in lifestyle to which they were accustomed prior to defendant's crimes, and sentencing transcript and trial court's opinion made clear that trial court properly considered unique circumstances of crimes and their effect on victims. 42 Pa.C.S.A. § 9781.
	Baney	860 A.2d 127	9/3/2005	PA Super	Sentence	Discretionary Aspects	By entering into valid negotiated guilty plea to drug offenses, defendant waived right to challenge discretionary aspects of negotiated sentence.
	Perry	883 A.2d 599	8/10/2005	PA Super	Sentence	Discretionary Aspects	Aggregate minimum sentence of 51 months in prison, which involved some consecutive sentences, for ten counts each of selling unregistered security, acting as broker-dealer or agent without being registered, and engaging in fraudulent or prohibited practices was not excessive, even though defendant argued that trial court did not consider mitigating evidence, including his stable family background and good character; defendant defrauded 69 victims of over \$2.5 million, most victims were elderly, defendant could only make fraction of ordered restitution over his remaining lifetime, and many victims had their lives utterly and irreversibly destroyed. 50 P.S. §§ 1-201, 1-301(a), 1-401(b, c), 1-511(b); 42 Pa.C.S.A. § 9756(b); 204 Pa.Code § 303.16.
	Whitman	880 A.2d 1250	8/1/2005	PA Super	Sentence	Discretionary Aspects	While defendant's individual sentences fell within the guideline range for each of his convictions of numerous property crimes, his sentences were consecutive, and due to consecutive nature of his sentences, defendant's aggregate sentence of thirty-nine to seventy-eight years imprisonment was manifestly excessive, and thus defendant's sentence would be vacated and case would be remanded for resentencing; trial court failed to acknowledge that the crimes were nonviolent, court did not address the rehabilitative needs of the defendant, and defendant displayed at sentencing both remorse and a desire to make financial reparation to victim and asked the court to consider that he cooperated with police and pled guilty to the offenses. 42 Pa.C.S.A. §§ 9721(b), 9781(c)(2).

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	Twitty	876 A.2d 433	5/25/2005	PA Super	Sentence	Discretionary Aspects	Sentencing court did not abuse its discretion in sentencing defendant to statutory maximum, in prosecution for rape, involuntary deviant sexual intercourse (IDSI), unlawful contact with minor, aggravated indecent assault, endangering the welfare of a child, and corrupting the morals of a minor; there was nothing in record to suggest that court had either blanket policy of sentencing sex offenders to statutory maximum or that defendant received statutory maximum sentence simply because he was sex offender, and court specifically focused on effect of abuse on victim, defendant's close relationship with victim, and defendant's lack of remorse. 18 Pa.C.S.A. §§ 3123, 3125, 3131, 4304, 6301, 6318.
	Lee	876 A.2d 408	4/27/2005	PA Super	Sentence	Discretionary Aspects	Aggregated sentence of 15 to 96 months for corruption of minors and two counts of indecent assault was not excessive; sentence was within statutory sentencing guidelines and maximum limits, and sentencing scheme provided defendant with opportunity for long-term counseling and long period of supervision to protect public. 18 Pa.C.S.A. §§ 1104, 3126(a)(8), 6301(a)(1), 42 Pa.C.S.A. § 9721.
	Lee	876 A.2d 408	4/27/2005	PA Super	Sentence	Discretionary Aspects	Evidence on policies of Pennsylvania Board of Probation and Parole (PBPP) was irrelevant to issue of sentencing for corruption of minors and two counts of indecent assault; trial court had no way of knowing, and no authority over, if or when defendant would be granted parole by PBPP, given that sentence imposed was greater than two years, and trial court's sole responsibility, upon finding necessity of a sentence, was to set date that defendant was to become eligible for parole, not to engage in guessing game that tracked oftentimes changing policies of PBPP. 61 P.S. § 331.17; Rules of Evid., Rule 401, 42 Pa.C.S.A.
	Robertson	874 A.2d 1200	4/26/2005	PA Super	Sentence	Discretionary Aspects	Trial court acted within its discretion in imposing aggregated sentence of 30 to 60 years in prison after convictions for robbery, aggravated assault, and criminal attempt to commit homicide, even though sentence included maximum term for criminal attempt to commit homicide, and aggregated sentence was 18 months beyond aggravated range; defendant had substantial history of violent crimes of progressive or escalating violence, which indicated particularly grave threat to safety of society in general, and departure from sentencing guidelines was not that substantial. 204 Pa.Code § 303.1 et seq.

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	Robertson	874 A.2d 1200	4/26/2005	PA Super	Sentence	Discretionary Aspects	Although the sentencing guidelines are considered advisory, the sentencing court is still charged with considering them and determining whether to apply them or whether circumstances of the individual case require departure from them. If a sentencing court imposes a sentence that deviates significantly from the recommendations in the sentencing guidelines, it must demonstrate that the case under consideration is compellingly different from the typical case of the same offense or point to other sentencing factors that are germane to the case before the court, such as the character of the defendant or the defendant's criminal history. 204 Pa.Code § 303.1 et seq.
	Johnson	873 A.2d 704	3/22/2005	PA Super	Sentence	Discretionary Aspects	Sentencing courts, while required to consider the sentencing guidelines and the individual whose liberty is at stake, must also consider other factors, including the protection of the public, gravity of offense in relation to impact on victim and community, and rehabilitative needs of defendant. A sentencing court must impose a sentence that is appropriate in light of the individualized facts of the underlying incident.
	Tirado	870 A.2d 362	3/3/2005	PA Super	Sentence	Discretionary Aspects	An abuse of discretion in sentencing is more than just an error in judgment and, on appeal, the trial court will not be found to have abused its discretion unless the record discloses that the judgment exercised was manifestly unreasonable, or the result of partiality, bias or ill-will.
	Snyder	870 A.2d 336	3/3/2005	PA Super	Sentence	Discretionary Aspects	An "abuse of discretion" is not merely an error of judgment; discretion is abused when the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias, or ill-will, as shown by the evidence or the record.
	Monaco	869 A.2d 1026	2/24/2005	PA Super	Sentence	Discretionary Aspects	Sentence of five to ten years in prison upon defendant's conviction for attempted rape of a person less than 13 years old did not constitute cruel and unusual punishment, given heinous nature of sexual offenses and fact that maximum legal sentence for attempted rape was twenty years' imprisonment. U.S.C.A. Const.Amend. 8.
	Druce	868 A.2d 1232	2/11/2005	PA Super	Sentence	Discretionary Aspects	Sentences for insurance fraud and tampering with evidence were not illegal, even though the sentencing court imposed sentences in the aggravated range of the sentencing guidelines, without the benefit of a jury finding the aggravating factor that would justify the sentences; defendant was not subjected to a sentencing scheme where a factor increased his sentence beyond the statutory maximum, but rather, he received a sentence in the aggravated range of the sentencing guidelines.

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	Diaz	867 A.2d 1285	1/31/2005	PA Super	Sentence	Discretionary Aspects	Defendant's diagnosis for dysthymic disorder, a form of chronic depression, by itself, did not warrant modification or reduction of sentences for burglary, theft by unlawful taking, and criminal trespass. Mental illness is a factor that may be considered in sentencing. There is no mandatory reduction in sentence because a defendant has acted due, at least in part, to mental illness. 42 Pa.C.S.A. § 9727(a).
	Diaz	867 A.2d 1285	1/31/2005	PA Super	Sentence	Discretionary Aspects	Aggregate sentence of 12 to 24 years for burglary, theft by unlawful taking, and criminal trespass, which amounted to virtual life sentence for 74-year-old defendant, was not manifestly excessive; trial court did not sentence defendant on all 42 counts or run all sentences consecutively, but instead sentenced defendant to one term for crimes committed during one-year period, equal and consecutive period for crimes committed in next year, and final equal and consecutive sentence for crimes committed in most recent year, and each individual sentence was within standard range for crime.
	Stewart	867 A.2d 589	1/21/2005	PA Super	Sentence	Discretionary Aspects	The trial court abused its discretion when it considered, and then enhanced, defendant's sentence based on charges that were nolle prossed as part of defendant's plea agreement, and thus remand for a new sentencing hearing was required. A manifest abuse of discretion exists when a sentence is enhanced due to charges that have been nolle prossed as part of a plea agreement, because notions of fundamental fairness are violated.
	Redman	864 A.2d 566	12/17/2004	PA Super	Sentence	Discretionary Aspects	Defendant raised substantial question on direct appeal regarding discretionary aspects of her sentence as to warrant remand to enable trial court to modify its written sentencing order to include orally expressed terms of defendant's probationary sentence for writing a bad check; trial court failed to include in its written judgment that defendant was eligible for early release from probation if she paid restitution award early. 18 Pa.C.S.A. § 4105.
	Rossetti	863 A.2d 1185	12/8/2004	PA Super	Sentence	Discretionary Aspects	Trial court made adequate findings on the record to support its imposition of statutory maximum sentence for defendant's conviction for involuntary manslaughter; trial court acknowledged defendant's history of prior criminal involvement, his dishonesty to police immediately following discovery and identification of victim, the anguish suffered by victim's family due to unknown circumstances of his death, his friendship with victim, his leading role in the beating and sodomization of victim, his encouragement of others to participate in beating and sodomization, his refusal to seek medical attention for victim, and his disposal of victim in a deserted area, all of which was motivated by dispute over drug trafficking. 18 Pa.C.S.A. § 2504.

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	Galletta	864 A.2d 532	12/7/2004	PA Super	Sentence	Discretionary Aspects	The trial court's imposition of statutory maximum of two and one-half to five years imprisonment for corruption of minors was not an abuse of discretion; court stated that it imposed the maximum sentence to protect the public and to rehabilitate defendant, and the court referred to defendant's lack of remorse, the age difference between defendant and the victim, and the fact that defendant was not amenable to supervision in light of his parole status resulting from the earlier commission of the same crime. Rules App.Proc., Rule 2119(f), 42 Pa.C.S.A. §9721(b).
	Cortez	860 A.2d 1045	10/8/2004	PA Super	Sentence	Discretionary Aspects	Trial court's reasons on record did not justify imposition of aggregate sentence of 15 to 30 years in prison for two counts of possession with intent to deliver (PWID) controlled substance; trial court did not consider required factors of protection of public, gravity of offense in relation to impact on victim and community, and rehabilitative needs of defendant, and trial court's description of defendant's conduct as "spreading his cancer" throughout many neighborhoods and families lacked firm evidentiary support and thus appeared to be less about defendant as individual and more of commentary on drug dealers in general. 42 Pa.C.S.A. §§ 9721, 9781.
	Boyer	856 A.2d 149	8/3/2004	PA Super	Sentence	Discretionary Aspects	Trial court did not abuse its discretion when it sentenced defendant; trial court reviewed the presentence investigation report, imposed minimum sentences in the standard range of the sentencing guidelines, imposed maximum sentences that were clearly permissible, and chose to order that the sentences be served consecutively. Pennsylvania is an indeterminate sentencing state, and in Pennsylvania, the determination as to whether an inmate serves only his minimum sentence, serves the maximum term, or serves some amount of time in between, is a decision to be made based on how the inmate conducts himself while incarcerated and is ultimately up to the Pennsylvania Board of Probation and Parole.
	Scott	860 A.2d 1029	7/21/2004	PA Super	Sentence	Discretionary Aspects	The factors to be considered by the trial court when determining a defendant's sentence include the character of the defendant and the particular circumstances of the offense in light of the legislative guidelines for sentencing. A defendant's failure to cooperate with the Commonwealth in its prosecution of a separate matter is not a permissible factor for the trial court to consider in sentencing.

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	Gunter	849 A.2d 587	3/9/2004	PA Super	Sentence	Discretionary Aspects	Defendant's sentence of two to eight years' imprisonment for conviction by guilty plea to unsworn falsification and delivery of cocaine was not a predetermined sentence, but instead resulted from trial court's consideration of all appropriate factors in fashioning sentence; sentence was 12 years less than the available statutory maximum, trial court never expressed a predetermined policy of imposing maximum sentences, but instead made findings on the record alluding to defendant's status as a repeat drug offender and parole violator. 35 P.S. § 780-115(a).
	Mola	838 A.2d 791	12/8/2003	PA Super	Sentence	Discretionary Aspects	When fashioning a sentence, a trial court must consider factors set out in statute requiring sentence consistent with protection of public, gravity of offense in relation to impact on victim and community, and rehabilitative needs of defendant, and impose an individualized sentence. 42 Pa.C.S.A. § 9721(b). A sentence must be based on minimum confinement consistent with gravity of the offense, the need for public protection, and defendant's needs for rehabilitation. 42 Pa.C.S.A. § 9721(b). Imposing a standardized sentence on all drug offenders is a manifest abuse of discretion.
	Mola	838 A.2d 791	12/8/2003	PA Super	Sentence	Discretionary Aspects	Trial court committed manifest abuse of discretion in sentencing defendant to 15-year maximum for delivery of controlled substance convictions; although court stated in its opinion that it would impose statutory maximum "in appropriate cases," any doubt that "appropriate cases" meant all drug cases was eroded by other evidence, since court did not correct defense counsel's statement that court had announced it would give statutory maximum as maximum sentence to "anybody convicted of a drug offense," and 15-year maximum was excessive since court itself acknowledged that case was primarily an addiction problem. 42 Pa.C.S.A. § 9721(b).
	Paolino	837 A.2d 1216	12/2/2003	PA Super	Sentence	Discretionary Aspects	A sentence outside the guidelines may be affirmed if the departure is reasonable. Sentence of 30 to 120 years of imprisonment imposed on defendant for committing offenses of insurance fraud, practicing osteopathic medicine without a license, and prescribing controlled substances contrary to requirements of the law, was not impermissibly excessive.
	Pollard	832 A.2d 517	9/9/2003	PA Super	Sentence	Discretionary Aspects	Defendant's sentence of 20 to 40 years of incarceration for third-degree murder with consecutive terms of imprisonment of five to 15 years for criminal conspiracy was not unreasonable; trial judge relied in detail upon pre-sentence report, weighed information presented by defendant's family, victim impact statements, and defendant's statements and demeanor during allocution.

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	Pollard	832 A.2d 517	9/9/2003	PA Super	Sentence	Discretionary Aspects	There is no absolute right to appeal the discretionary aspects of a sentence; rather, allowance of an appeal raising such a claim will be granted only when the appellate court with initial jurisdiction over such claims determines that there is a substantial question that the sentence is not appropriate under the Sentencing Code. The Superior Court determines, on a case-by-case basis, whether a substantial question exists concerning the propriety of the sentence. Bald allegations of excessiveness are insufficient to demonstrate whether a substantial question exists concerning the propriety of a sentence.
	Pollard	832 A.2d 517	9/9/2003	PA Super	Sentence	Discretionary Aspects	Defendant's sentence of one to two years for abuse of a corpse, although not within Sentencing Guideline range of up to one month of imprisonment in standard range, with additional three months in aggravated range, was not unreasonable; trial judge relied especially upon particular circumstances in which victim's nude corpse was left, and relied in detail upon pre-sentence report, weighed information presented by defendant's family, victim impact statements, and defendant's statements and demeanor during allocution in finding sentence within Sentencing Guidelines to be insufficient.
	Bishop	831 A.2d 656	8/21/2003	PA Super	Sentence	Discretionary Aspects	Defendant's sentence of 13 to 36 months for theft by receiving stolen property was not unduly harsh or excessive, although defendant had never been treated for his mental health issues and expressed interest to undergo treatment; trial court considered defendant's mental health and substance abuse issues, and sentence included a recommendation that defendant undergo a psychological evaluation and receive drug and alcohol treatment.
	Simpson	829 A.2d 334	7/11/2003	PA Super	Sentence	Discretionary Aspects	Sentencing court sufficiently stated its reasons for the sentence defendant received on his conviction for making terroristic threats, where court considered not only defendant's prior record but also the impact on the victim, the threat to the community, lack of successful rehabilitation and the fact that defendant was on probation and under supervision at the time of the offense.

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	Celestin	825 A.2d 670	5/2/2003	PA Super	Sentence	Discretionary Aspects	Trial court's imposition of a six month to twelve month sentence in a sexual assault prosecution was unreasonable; trial court's reliance upon defendant's lack of prior record score was misplaced since guideline sentence recommendations already contemplated defendant's prior record score, trial court's general, non-specific references to defendant's 'accomplishments' failed to explain necessity of a 400% downward deviation from mitigated sentencing range, and for sentencing purposes, lack of aggravating factors was not in itself mitigating factor justifying downward departure. 18/3124.1, 42/9781(b).
	Cunningham	805 A.2d 566	7/31/2002	PA Super	Sentence	Discretionary Aspects	On appeal, the trial court will not be found to have abused its discretion unless the record discloses that the judgement exercised was manifestly unreasonable, or the result of partiality, prejudice, bias, or ill-will.
	Cunningham	805 A.2d 566	7/31/2002	PA Super	Sentence	Discretionary Aspects	Trial court did not abuse its discretion in sentencing robbery and burglary defendant to an aggregate sentence of 40-80 years, which was beyond the sentencing guidelines and amounted to a term of life imprisonment; defendant had an extensive criminal history, he had not been rehabilitated, and his victims were the elderly.
	Sharp	792 A.2d 1266	2/20/2002	PA Super	Sentence	Discretionary Aspects	Sentencing court did not abuse its discretion when it took into consideration defendant's first DUI conviction that she received in NY when court sentences defendant as a four-time DUI offender; despite fact that NY court did not take the conviction into consideration when it sentenced defendant for two subsequent DUI convictions, on grounds that the decision was supported by the Driver's License Compact to which both states were a party, and which allowed sentencing court to take into consideration out-of-state DUI convictions. 75/1581.
	Ritchey	779 A.2d 1183	7/2/2001	PA Super	Sentence	Discretionary Aspects	Imposition of 10-20 year sentence of incarceration upon defendant convicted on open plea of guilty to one count of aggravated assault was abuse of sentencing court's discretion, where court's statement of reasons did not indicate the court had given individualized consideration to defendant's personal history, rehabilitative needs or background and indicated that court had focused exclusively on seriousness of defendant's crime, and where court did not have benefit of presentence report.
	Petaccio	764 A.2d 582	12/13/2000	PA Super	Sentence	Discretionary Aspects	An objection to a discretionary aspect of a sentence is clearly waived if it was neither raised at the sentencing hearing nor raised in a motion to modify the sentence imposed at that hearing. Whether a substantial question has been raised, so as to permit appellate review of the discretionary aspects of sentence, is determined on a case by case basis.

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

	Fisher	752 A.2d 921	5/15/2000	PA Super	Sentence	Discretionary Aspects	Although court is required to explain its reasons for imposing sentence, court need not specifically cite or include language of sentencing code; it must only demonstrate that court had considered factors specified in code.
	Sierra	752 A.2d 910	5/15/2000	PA Super	Sentence	Discretionary Aspects	Sentencing court did not abuse its discretion in imposing statutory maximum for original aggravated assault conviction upon revocation of probation for technical parole/probation violation, where court gave careful consideration to all relevant factors in sentencing defendant, including her significant criminal record as a juvenile and as an adult.
	Goggins	748 A.2d 721	3/9/2000	PA Super	Sentence	Discretionary Aspects	A trial court's exercise of discretionary power in sentencing requires both sufficient information and adherence to applicable rules of court. When fashioning a sentence, a sentencing court may not 'double count' factors already taken into account in the sentencing guidelines.
	Kraft	737 A.2d 755	7/13/1999	PA Super	Sentence	Discretionary Aspects	A claim of excessiveness of sentence does not raise a substantial question, so as to permit appellate review of the discretionary aspects of sentence, where the sentences within the statutory limits.
	Wellor	731 A.2d 152	5/17/1999	PA Super	Sentence	Discretionary Aspects	Trial court properly weighed all of the relevant factors and provided adequate reasons on the record for sentencing defendant... in the aggravated range; court considered pre-sentence investigation report which made reference to defendant's numerous prior convictions.
	Roden	730 A.2d 995	5/5/1999	PA Super	Sentence	Discretionary Aspects	Trial court did not rely on impermissible factor in sentencing defendant for murder 3 at the top of the standard range where he noted that babysitter's actions would have negative effect on working mothers who rely on babysitters.
	Egan	679 A.2d 237	6/21/1996	PA Super	Sentence	Discretionary Aspects	Sentence vacated because trial judge failed to give reasons for his decision; court failed to indicate that it had reviewed and considered PSI and did not provide on the record any reasons for sentence imposed.
	Hoag	665 A.2d 1212	9/27/1995	PA Super	Sentence	Discretionary Aspects	Sentence for sale of cocaine seemingly disproportionate to other drug sentences nonetheless appropriate under the Sentencing Code; appeal therefore meritless as it deals with discretionary aspects of sentencing.
	Eline	940 A.2d 421	12/31/2007	PA Super	Sentence	Discretionary Aspects	Defendant's minimum sentence for deceptive business practices in excess of sentencing guidelines was not abuse of discretion; trial court expressly indicated it considered pre-sentence report, was aware of relevant information regarding defendant's character, and weighed those considerations along with mitigating statutory factors.