

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

	Holmes	933 A.2d 57	10/16/2007	PA	Sentence	Modification	Court's inherent power to correct patent and obvious errors does not extend to reconsideration of a court's exercise of sentencing discretion. A court may not, under its inherent power to correct patent and obvious errors, vacate a sentencing order merely because it later considers a sentence too harsh or too lenient.
	Vasquez	744 A.2d 1280	1/28/2000	PA	Sentence	Modification	When the court imposes a sentence outside the legal parameters prescribed by applicable statute, sentence is illegal and should be remanded for correction. Trial courts never relinquish their jurisdiction to correct an illegal sentence.
	Martz	926 A.2d 514	6/6/2007	PA Super	Sentence	Modification	Once 30-day period for altering or modifying sentence has expired or once a defendant files a notice of appeal, the trial court is without jurisdiction to alter or modify its order. 42 Pa.C.S.A. § 5505.
	Nickens	923 A.2d 469	4/27/2007	PA Super	Sentence	Modification	Trial court was without a basis to increase defendant's sentence upon defendant's motion to modify the sentence, absent a timely post-sentence motion from the commonwealth seeking to increase the sentence, and thus, the upwardly modified sentence was required to be vacated, even though the commonwealth had argued for the increased sentence as a "new matter" raised in its answer to defendant's motion to modify; even if the commonwealth's answer was deemed the functional equivalent to a post-sentence motion, it was untimely filed. Rules Crim.Proc., Rule 721(B)(1), 42 Pa.C.S.A.
	Baio	898 A.2d 1095	5/1/2006	PA Super	Sentence	Modification	Generally, a court may modify or rescind any order within 30 days after its entry, if no appeal has been taken. Court has inherent powers to amend its records, to correct mistakes of the clerk or other officer of the court, inadvertencies of counsel, or supply defects or omissions in the record, even after lapse of 30 day term for modification of orders. Trial court may sua sponte correct an illegal sentence originally imposed, even after the defendant has begun serving the original sentence, and even after lapse of 30 day term for modification of orders. 42 Pa.C.S.A. § 5505.
	Baio	898 A.2d 1095	5/1/2006	PA Super	Sentence	Modification	If no statutory authorization exists for a particular sentence, that sentence is illegal and subject to correction. Trial court's sentencing order making defendant convicted of delivery of cocaine eligible for work release was in contravention of statutory proscription against placing drug traffickers in work-release programs, and thus constituted an illegal sentencing order subject to correction. 18 Pa.C.S.A. § 7508(c).

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	Young	895 A.2d 40	3/6/2006	PA Super	Sentence	Modification	Court lacked jurisdiction to correct illegal two, 36-month concurrent terms of intermediate punishment to two, 36-month concurrent terms of probation imposed for identity theft and theft by deception as more than 30 days had passed since imposition. 42 Pa.C.S.A. § 5505.
	Wesley	889 A.2d 636	12/23/2005	PA Super	Sentence	Modification	Trial court did not lack authority to vacate original sentence for alcohol-related offenses and resentence defendant, which resentencing included higher amount of restitution, where Commonwealth filed motion to modify sentence within ten days after original sentence was imposed. Rules Crim.Proc., Rules 720(a), 721(A, B), 42 Pa.C.S.A.
	Kositi	880 A.2d 648	7/19/2005	PA Super	Sentence	Modification	Statute governing petitions seeking sentence modification to provide for petitioner's special medical needs permits a change in the location of confinement but not the length of confinement; statute authorizes a transfer only from one institution to another. To obtain sentence modification to provide for petitioner's special medical needs, petitioner must make a prima facie claim for modification of sentence or transfer; to make a prima facie claim, petitioner must allege that his current facility lacks the resources to treat him or that his illness compromises the collective health of the institution holding him. 61 P.S. § 81.
	Moran	823 A.2d 923	4/29/2003	PA Super	Sentence	Modification	Trial court's modification of the sentencing order after defendant's appeal, clarifying the consecutive nature of defendant's sentences, was not improper, especially where both parties agreed that the original sentencing order was ambiguous and that the amended order, if valid, resolved any question regarding the court's intent.
	Reefer	816 A.2d 1136	1/30/2003	PA Super	Sentence	Modification	In determining whether to modify prisoner's sentence so that he could receive adequate treatment for his various health problems, the trial court was precluded from taking into consideration complaints about the PBPP's continued rejection of his parole applications; parole decisions were exclusively within the province of the PBPP. 61/81, 331.17, 331.18, 331.21
	Reefer	816 A.2d 1136	1/30/2003	PA Super	Sentence	Modification	Trial court abused its discretion in modifying length of prisoner's sentence and the location of his confinement in accommodating his his request for health-related sentence modifications; the trial court was authorized to 'modify its sentence,' and while this phrase was ambiguous, the historical context of the relevant statute, combined with the fact that it directed the trial court to 'recommit' the prisoner to his original place of confinement upon his recovery, clearly indicated that 'modify' referred only to place of confinement. 61/81.

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	Haughwout	816 A.2d 247	1/21/2003	PA Super	Sentence	Modification	The trial court lacked jurisdiction to modify defendant's sentences, where defendant had filed a notice of appeal prior to the trial court modifying defendant's sentences, and defendant did not file a motion to reconsider his sentences when he filed his notice of appeal.
	Kunkle	817 A.2d 498	1/14/2003	PA Super	Sentence	Modification	Commonwealth could not use sentence modification hearing to present evidence to support application of sentence enhancement statute for drug offense committed within 250 feet of recreation center or playground, where Commonwealth had failed to present sufficient evidence for application of sentence enhancement at original sentencing hearing. 18/6317(b).
	Walters	814 A.2d 253	12/20/2002	PA Super	Sentence	Modification	Generally, once the 30-day period for modification of trial court orders has expired, the trial court loses the power to alter its orders. Where mistake in sentence is patent and obvious, trial court has power to correct it even though the 30-day period for modification of trial court orders has expired. 42/5505.
	Walters	814 A.2d 253	12/20/2002	PA Super	Sentence	Modification	Trial court had no jurisdiction to modify or rescind final sentencing order; defendant never directly appealed his sentence, meaning absent fraud or obvious mistake, the trial court had only 30 days following entry of order to modify defendant's sentence. 42/5505.
	Lightcap	806 A.2d 449	8/29/2002	PA Super	Sentence	Modification	Inmate established prima facie claim for modification of sentence or transfer to a medical facility due to serious illness, and thus, was entitled to evidentiary hearing on motion, where petition alleged his liver disease had become life-threatening and required transplant, and which treatment was not available at institution in which inmate was incarcerated. 61/81.
	Lightcap	806 A.2d 449	8/29/2002	PA Super	Sentence	Modification	Statute governing motion for modification of sentence due to serious illness did not require that inmate's illness occurred post-sentence, but only that illness be sufficiently serious. 61/81.
	Dunlavy	805 A.2d 562	7/30/2002	PA Super	Sentence	Modification	Trial court's order granting petition to modify sentence to facilitate prisoner's medical treatment by reducing original sentence of 7-23 years imprisonment to 15 years probation constituted abuse of discretion. prisoner never alleged that he had a disease that could not be treated in prison. 61/81.
	Klein	781 A.2d 1133	10/4/2001	PA Super	Sentence	Modification	Filing of notice of appeal did not divest trial court jurisdiction to modify sentencing order in which court, in sentencing defendant, relied on erroneous information that defendant had already served 33 days, where court was merely correcting patent defect in record. 42/5505.

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	Santone	757 A.2d 963	8/3/2000	PA Super	Sentence	Modification	Order modifying sentence after 120-day period set forth by (R.Crim. P.)Rule 1410 was a nullity, in case in which motion for extension of time was not filed, sentence was not illegal, and there was no need to correct mistakes of court officers or counsel's inadvertencies, or to supply defects or omissions in record.
	Luper	745 A.2d 1248	1/18/2000	PA Super	Sentence	Modification	Trial court did not have the authority to modify restitution order, though the court expressly noted it reserved the right to modify sentence for conviction of theft by deception, where the maximum term of imprisonment to which defendant could have been sentenced expired.
	Serrano	727 A.2d 1168	3/16/1999	PA Super	Sentence	Modification	Imposition of more severe sentence, after defendant moved to modify sentence that was imposed following revocation of IP sentence, was improper, absent additional objective information justifying sentencing increase.
	Rohrer	719 A.2d 1078	11/9/1998	PA Super	Sentence	Modification	Where mistake in sentence is patent and obvious, court has power to correct it, even though 30-day appeal period has expired.
	Young	695 A.2d 414	5/2/1997	PA Super	Sentence	Modification	Power to modify judgment of sentence to amend records, to correct mistakes of court officers or counsel's inadvertencies is inherent in court system, even after 30-day period for altering or modifying sentence has expired.
	Wesley	688 A.2d 201	1/7/1997	PA Super	Sentence	Modification	The trial court was permitted to amend a certificate of imposition of judgment of sentence, even after the 30 day statutory period, where the certificate contained an obvious and patent error on its face; corrections permitted under 42 PaCS5505.
	Campion	672 A.2d 1328	2/29/1996	PA Super	Sentence	Modification	A resentence following a motion for modification may not exceed the previous sentence without justification. Where a subsequent sentence imposes a greater penalty than previously was imposed, a presumption of vindictiveness attaches. The reasons for doin
	Jarvis	663 A.2d 790	8/24/1995	PA Super	Sentence	Modification	Defendant's failure to object to the sentence either during trial or by post-trial motion results in failure to preserve right to challenge discretionary aspects of sentence.
	Rosenberry	645 A.2d 1328	7/18/1994	PA Super	Sentence	Modification	Trial courts may not modify or extend parole as part of sentence modification after 30 day period following sentence.
	Rosenberry	645 A.2d 1328	7/18/1994	PA Super	Parole	Modification	Trial courts may not modify or extend parole as part of sentence modification after 30 day period following sentence.