

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
) Criminal No. 22-84
)
)
TYLER SMITH)

TYLER SMITH'S SENTENCING MEMORANDUM

Tyler at 11:47 AM: Dude wtf happened to me

Dinell at 12:57 PM: Are you up? What are you feeling like

Tyler at 2:16 PM: What happened tonme [sic]

Dinell at 2:22 PM: You fell outside a couple times, it took a while to find your apartment but we got you home and took care of you. I stayed til about 5 or so and autumn said she stayed til 10

Tyler at 2:24 PM: Geez my face is f[redacted]

Tyler at 2:24 PM: I put too many back

Tyler at 2:25 PM: I cracked a tooth blood everywhere

Tyler at 2:25 PM: This is a sign

Dinell at 2:30 PM: Yeah I was telling you to maybe stop drinking but you kept putting them back lol I didn't realize you cracked a tooth. I was trying to keep you up but you started running and that's when you fell and hit your head and jaw on the ground, there was a ton of blood I got so scared but it stopped after a while

Text exchange between Zachery Dinell and Tyler Smith ("Text exchanges"),
September 16, 2017.

Tyler at 9:10 PM: What are you doin hub

Tyler at 9:10 PM: Doing

Dinell at 9:18 PM: Just got a bike and went for a ride

Dinell at 9:18 PM: What are you doing

Tyler at 10:26 PM: Drinking

Tyler at 10:43 PM: Thinking of hanging myself

Text exchanges May 4, 2017.

Tyler at 12:43 AM: Talk to you tomorrow

Tyler at 12:44 AM: If I'm still alive

Dinell at 12:45 AM: Don't go too far man I need you here

Tyler at 12:52 AM: I'll be far below or on the other side
Where we will all end up

Tyler at 12:53 AM: And I've had enough

Tyler at 12:55 AM: Drinking every night f[redacted] crazy
ass girls only looking forward to the next
day and lookin g forward to drinking
and smoking . . . not a good life to live
my man not GOOD

Text exchanges December 14, 2016.

Tyler at 11:14 PM: I quit drinking for two nights and I
have to drink tonight cause I'm going
through withdrawals myself

Dinell at 11:28 PM: That's good progress, 2 nights in a row

Tyler at 11:28 PM: The way I feel I think I need
some but I'm gonna try not to

Dinell at 11:30 PM: That's good to hear, you should try not to
have any again, maybe you can get yourself off it

Tyler at 11:31 PM: I gotta wean off

Tyler at 11:31 PM: I looked it up and talked to
my pops about it

Tyler at 11:32 PM: Each night I gotta drink less then
go every other night then drop it down
to three four nights a week

Tyler at 11:32 PM: Vicious cycle

Tyler at 11:32 PM: Putting my whole pint back tonight

Dinell at 11:33 PM: That's the way to do it. I hope you can get it
down to a couple nights a week, that wouldn't be bad

Dinell at 11:33 PM: Try like half a pint tonight and see how that is

Tyler at 11:39 PM: Too late

Tyler at 11:39 PM: If I can't do it on my own I'm going
To have to get help

Text exchange January 19, 2017.

Tyler Smith has a lengthy history of alcohol abuse, along with a history of substance abuse. He began drinking alcohol and smoking marijuana when he was 15 years old. His first in-patient treatment was in 2009. *See* PSR at ¶ 76. And, he has completed in-patient treatment multiple times since then. *Id.* Throughout the time of the offense conduct, he was drinking heavily and had a physical dependence on alcohol, as reflected in the above text messages. Likewise, his family has submitted letters in support of him for this Court to consider when reaching a fair and just sentence. Therein, they explain that Mr. Smith has struggled with addiction. *See* exhibits A through D (Letters from Mr. Smith's family). Further, his family believes that Mr. Smith's offense conduct does not reflect how he was raised, who he is, and what he can be. Indeed, his mother emphatically states, **I know with every fiber of my being that if it were not for drugs and alcohol we would not be here today.**¹ *See* Exhibit A (Letter from Janet Smith) (emphasis in original).

On April 19, 2024, Mr. Smith will be sentenced by this Court for conspiracy to violate the Hate Crimes Prevention Act with Zachary Dinell and for a Hate Crimes Prevention Act count relating to his direct contact with a resident at McGuire Memorial. By way of a plea agreement, the parties agreed to seek a sentence no less than five nor greater than ten years' imprisonment. As set forth herein, the factors set forth in 18 U.S.C. § 3553(a) support a sentence of five years.

¹ To be clear, Mr. Smith does not argue that he was under the influence of drugs and alcohol during all of the offense conduct; instead, he explains that during that period of his life he was actively addicted to drugs and alcohol, abused substances daily, and struggled with deep-seeded feelings of despair.

Nature And Circumstances Of The Offense And Mr. Smith's History And Characteristics

The nature and circumstances of this offense, by any objective measure, is disturbing. Two able-bodied young men charged with personal care for people with severe disabilities participated in hate crimes against these vulnerable individuals.² Mr. Smith acknowledges the cruelty of the offense conduct. However, this court should not be “so appalled by the offense that it los[es] sight of the offender.” *United States v. Olhovsky*, 562 F.3d 540, 549 (3d Cir. 2009).

Mr. Smith has experienced extreme remorse since the offense conduct. As his family explains to this Court, Mr. Smith is struggling with “debilitating depression.”³

See Exhibit B (Letter from Brent Smith).

Tyler has put himself in his own little mental prison cell. The choices he has made in a turbulent season of his life have forever changed his life. The sad events that took place at McGuire and subsequent charges have taken a toll on his health and well-being. Tyler has been debilitatingly depressed for the past three years. He can barely get out of bed. He gets a job, and they realize his charges and gets fired. This has happened twice in the last 6 months.

² To be sure, there is a vast difference between the conduct of Mr. Smith and Mr. Dinell. As this Court is aware, every substantive count except for one was physically carried out by Dinell. And, as to those acts, Dinell made and kept recordings of those actions. Mr. Smith, in contrast, admitted to engaging in hateful communications and that he had communications encouraging of some of Dinell's actions. Thus, Mr. Smith's offense conduct is far more limited than Dinell's.

³ The PSR notes that Mr. Smith has not been formally diagnosed with any mental or emotional health issues. *See* PSR at ¶ 74. Mr. Smith respectfully requests that, as part of his conditions of supervised release, this Court order a mental health evaluation and treatment if necessary given the multiple indicators of a possible Depressive Disorder or some other type of mental health disorder. *See, e.g.*, PSR at ¶ 20 (noting client experienced mental health symptoms).

Exhibit A (Letter from Janet Smith). Mr. Smith also isolates himself. *See* Exhibit B (Letter from Brent Smith). And, as his older brother, Vicent Catanzarite explains to this Court, “As disgusted by those texts as I was, a sober Tyler was even more HORRIFIED than I was when he read [them].” *See* Exhibit C (Letter from Vincent Catanzarite). “His depression and anxiety have a chokehold on his existence, and his only [refuge] is to sleep . . . He is punishing himself to such an extent that in my opinion, jail could not touch the pain he is forcing upon himself.” *Id.*

The offense conduct here stands in stark contrast to what Mr. Smith’s family knows about him. He was an altar boy at his church; he volunteered to help the maintenance man at the church with any additional work that was needed; he was the kid who made friends with the new kids who transferred into his school. *See* Exhibit D (Letter from Ryan Smith) and Exhibit A (Letter from Janet Smith). He even once felt so bad for a squirrel that was killed by other neighborhood kids, that he buried it and said a prayer. *See* Exhibit C (Letter from Vincent Catanzarite). His family members are all offended by the offense conduct, but note that Tyler was not raised that way and is ashamed of his actions. His family implores this Court to consider the effects that drug abuse, and alcoholism in particular, have had on him.

As this Court is aware, substance abuse can have profound effects on behavior; it can also significantly alter brain functioning.

The brain works by maintaining a careful balance of chemicals called neurotransmitters. When we drink alcohol, we disrupt this natural balance of neurotransmitters, and our brains revert to a more *instinctual mode* as parts of the brain help us regulate (our prefrontal cortex and executive functions) go offline. This can explain why we

experience lowered inhibitions, confusion, altered movement, intense emotional reactions and injure ourselves without realizing it until the next day. If we consume alcohol regularly our brain becomes used to functioning in its more instinctual mode and opportunities to develop stronger executive functions in our prefrontal cortex are diminished.

Connections in Mind, What effect does alcohol have on my executive functions, sleep and mood?, available at https://connectionsinmind.com/alcohol_efs/#:~:text=However%2C%20if%20alcohol%20is%20abused,control%20and%20sustained%20attention3. (last visited Apr. 9, 2024) (internal citations omitted) (emphasis in original). Thus, regular abuse of alcohol affects someone’s brain even when they are not drinking alcohol.

Alcohol Use Disorder is “a relapsing chronic brain disease marked by excessive alcohol consumption despite negative consequences.” Muacevic, Alexander *et al*, “Executive Dysfunction in Patients with Alcohol Use Disorder: A systematic Review, Sept. 15, 2022, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9573267/#:~:text=Alcohol%2Ddependent%20individuals%20have%20serious,and%20self%2Dregulation%20are%20affected>. (last visited Apr. 9, 2024). Here, for instance, Mr. Smith’s consumption of alcohol intensified his feelings of despair, resulted in black outs, and caused social and physical injuries. Nevertheless, he continued drinking despite his awareness that it was “not GOOD.”

Executive functioning is a concept that involves “self-regulation of goal-oriented behavior. It describes a broad range of cognitive skills, such as sustained

and selective attention, mental flexibility, response inhibition, supervisory control of action, and interference resistance.” *Id.* In addition to causing deficits in executive functioning. Alcohol Use Disorder also impairs visuospatial processing and memory. *Id.* Mr. Smith is not immune to the neurological effects of alcohol use disorder. Fortunately, his parents have repeatedly assisted Mr. Smith in finding treatment – even by calling the Pretrial Services Office to report that Mr. Smith was drinking to excess. *See* PSR at ¶ 15.

Alcohol and drug treatment is available both through the Bureau of Prisons and in the community. Indeed, the United States Sentencing Commission studied the efficacy of the BOP’s Residential Drug Abuse Treatment Program and Non-Residential Drug Abuse Treatment Program on recidivism. According to that study, there is a “significant reduction in the likelihood of recidivism for offenders who completed the Residential Drug Abuse Treatment Program or for the Non-Residential Drug Abuse Treatment Program.” *See* United States Sentencing Commission study “Recidivism and Federal Bureau of Prisons Programs: Drug Program Participants Released in 2010” at 5 (May 2022); available at https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2022/20220517_Recidivism-BOP-Drugs.pdf.

Mr. Smith has already demonstrated his desire to stay clean and sober. As his father informs this Court, “I am proud that he has remained clean of drugs and alcohol for nearly a year now.” *See* Exhibit B (Letter from Brent Smith). Mr. Smith has also valued employment. *See* PSR at ¶ 79. Indeed, his attendance issues with

treatment were related to his desire to work. *See* PSR at ¶ 16. When Mr. Smith lost his job with Fiber Cable Specialist Inc, he was devastated. At the same time, he was asked to leave the sober home where he was living. *See* PSR at ¶ 19. Significantly, he found other employment right away and maintained his sobriety in the face of these significant setbacks. Thus, Mr. Smith has the willingness and support to succeed in treatment while also maintaining employment.

Finally, it is relevant for this Court to understand that Mr. Smith's only other contact with the criminal justice system involved the conduct underlying the instant offense. *See* PSR at ¶ 61. Specifically, he was charged and convicted in state court for endangering the welfare of a child for conduct related to the instant offense at Count Five. As the Assistant District Attorney explained during the hearing:

Should this case proceed to trial, Your Honor, the Commonwealth would show that in or around February of 2019 during an investigation of another individual named Zachary Dinell, investigators located video files which showed the Defendant in this matter, Tyler Smith, jumping from the rail of the bed and landing on a 13-year-old juvenile patient at McGuire Memorial. The investigation would show that the Defendant at the time was working as an employee of McGuire Memorial, that the juvenile patient suffered from severe mental and physical disabilities, and that the jumping action of the Defendant onto the child knowingly endangered the welfare of a child by violating a duty of care, protection, and support.

See Exhibit E at 13-14 (Transcript Beaver County Court of Common Pleas No. 2019-2084).⁴ This Court should consider that the crime that was motivated by hate as set

⁴ The Assistant District Attorney further stated during the hearing, "we did a thorough investigation of all of the medical reports and history at McGuire Memorial which were turned over to us. We were unable to locate any specific injuries to the minor that stemmed directly from this incident." *See* Ex. E at 6. Additionally, the Court accepted the plea agreement, noting it was approved by the victim's mother and law enforcement, and imposed a sentence of two years' probation. *See* Ex. E at p. 18, *see also* Ex. E at pp. 7-8.

forth in Count Five of the Indictment was considered by the state court, and resulted in a probationary sentence. Thus, any additional penalty for Count Five is unnecessary. Indeed, it is hard to imagine that the motivation for the conduct, or the use of a cell phone to record it, deserves a lengthier sentence than the conduct itself.

Given the totality of the facts and circumstances of the offense, a total sentence of five years' imprisonment is warranted here, and this result is even more compelling once Mr. Smith's history and characteristics are considered.

Purposes of Sentencing

A sentence of five years comports with the purposes of sentencing, as set forth in § 3553(a)(2). Indeed, consideration of the first enumerated purposes of sentencing -- to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense and to afford adequate deterrence to criminal conduct -- weighs in favor of imposing a five-year sentence. This is a lengthy amount of time, especially for a first-time offender. Thus, it reflects the seriousness of the offense -- anything more would be greater than necessary to achieve that goal of sentencing. "Respect for the law is promoted by punishments that are fair, however, not those that simply punish for punishment's sake." *United States v. Stern*, 590 F.Supp.2d 945, 956-57 (N.D. Ohio Dec. 19, 2008) (emphasis in original, citations omitted); *see also United States v. Ontiveros*, 07-CR-333, 2008 WL 2937539, at *3 (E.D.Wis. July 24, 2008) ("[A] sentence that is disproportionately long in relation to the offense is unjust and likewise fails to promote respect [for the law].").

Here, there was a prior sentence imposed for conduct relevant to Count Five. The plea agreement in that case was approved by the mother of the victim and by law enforcement. Because that sentence achieved the goals of sentencing – reflecting the seriousness of the offense, providing just punishment, and having a deterrent effect – anything more for that conduct would be greater than necessary to meet the goals of sentencing. As to the conduct that underlies Count One, Congress imposed a statutory limit on that Count of five years. Thus, anything beyond five years’ incarceration for the conduct underlying Count One is greater than necessary to meet the goals of sentencing.

Another factor that weighs in favor of a five-year sentence here is the delay that occurred between the offense conduct and the indictment. Indeed, Mr. Smith was criminally charged and fully adjudicated on related charges in state court before he was even federally indicted. The offense conduct in this case occurred from June 2016 through September 2017.⁵ Mr. Smith were charged in state court in 2019 after the offense conduct came to light. Nevertheless, Mr. Smith was not charged in the instant case until March 23, 2022.

Delay in commencing criminal prosecutions can diminish the retributive effect of punishment. For instance, courts have recognized that the delay in indicting a case “impair[s] the goal of retribution, that is, the idea that punishment should reflect the seriousness of the offense and promote respect for the law.” *United States v.*

⁵ Mr. Smith walked off the job after reporting to work in September 2017, and he was subsequently fired.

Neuendank, 02-CR-1079, 2004 WL 419915 (N.D. Ill. Feb. 23, 2004) (imposing a sentence below the guideline range due to the government's delay in indicting defendant). In *United States v. Hunter*, 197 F.3d 862, 866 (7th Cir. 1999), the Seventh Circuit commented on the impact delay has on meeting underlying goals of sentencing:

One of the primary goals of our system of criminal law is to deter criminal conduct by others; however, if the criminal justice system does not react swiftly to criminal activity, this purpose becomes seriously weakened and the criminal law potentially crippled. . . . By delaying the indictment and prosecution of crimes, prosecutors can create the impression that criminal acts do not have consequences and thereby seriously undermine the deterrent purpose of criminal law. Ideally, criminal law should be administered in hot blood. . . . Swift justice is required for the benefit of the public, the victims and, in a different sense, the accused himself.

Here, nearly five years passed after the conduct set forth in the indictment and before federal criminal charges were filed. During that time, Mr. Smith was fully adjudicated for related matters in state court and wanted to move on with his life, but he was brought before federal court on related charges. This delay and the fact that Mr. Smith has not been re-arrested on other criminal conduct demonstrate that the goals of specific and general deterrence are met by a five-year sentence. Anything more would be greater than necessary.

Consideration of the remaining purposes of sentencing -- to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner -- supports imposition of a five-year sentence. Such a sentence will provide sufficient time to participate in Bureau

of Prisons Residential Drug Abuse Treatment Program and will permit Mr. Smith to secure gainful employment upon release.

Because a sentence of five years would be sufficient to meet all the goals of sentencing set forth in Section 3553(a)(2), consideration of this factor weighs in favor of imposing such a sentence. Anything longer would be greater than necessary to meet these goals of sentencing.

Kinds of Sentences Available

Title 18, Section 3553(a)(3) requires this Court to consider the kinds of sentences available. For the conduct charged at Count One, Congress imposed a statutory limit of five years. 18 U.S.C. § 371. For the conduct charged at Count Five, the statutory limit for incarceration is ten years. 18 U.S.C. § 249. For both counts, the court may impose a term of supervised release of up to three years. While a term of probation is permitted by law, Mr. Smith requests a total term of imprisonment of five years.

The kinds of sentences available are an important consideration in this case because this factor clarifies that the offense conduct charged at Count One cannot exceed five years of incarceration. Additionally, sentencing Mr. Smith to the upper limits of the statutory penalties at Count Five will undermine the fact that he this is his first offense and that he pleaded guilty. Consideration of this factor, therefore, weighs in favor of imposing a total sentence of five years here.

Avoiding Unwarranted Disparities

A sentence of five years is appropriate here because Mr. Dinell had a worse criminal history, more counts of conviction, and a far more involved role with the offense conduct. Any sentence above five years for Mr. Smith is unwarranted in light of Mr. Dinell's sentence.

Advisory Guideline Range

The advisory guideline range in this case is under dispute by the parties. Mr. Smith re-asserts his positions regarding the guidelines. He further emphasizes that the sentence for the conduct charged at Count One cannot spill over the maximum statutory limit for Count One. To put differently, the sentence at Count Five cannot be used to effectively, and judicially, increase the statutory limit of the offense charged in Count One.

The abuse of trust enhancement under U.S.S.G. § 3B1.3 does not apply here. While the government provided a lengthy job description, analysis of it reveals that it falls far short of the type of "substantial discretionary judgment" needed for such an enhancement to apply. Moreover, Mr. Smith's offense conduct relating to Count One involved sending and receiving text messages, and his ability to text a coworker – usually after work hours – had nothing do to with his job description.

As to Count One, Mr. Smith is entitled to a downward adjustment under U.S.S.G. § 3B1.2 for having a mitigating role in the offense. The videos are self-explanatory. Zachary Dinell is seen forcibly opening a resident's eye lids and rubbing the liquid irritant around the rim of the eye. Zachary Dinell is seen alone with a resident and striking him with a closed fist or kicking someone in the face with his shoe. Zachary Dinell is seen alone with a resident while he slowly pulls off a compression sock incorrectly. In contrast, the evidence reveals Mr. Smith sent text messages to Zachary Dinell. They are not equally culpable.

As to the Guideline range for Count One, Mr. Smith reasserts his prior position – that the indictment – by its plain language – does not establish a conspiracy to commit more than one offense. The indictment here does not charge more than one offense as to the overt acts; it merely charges “at least one.” Thus, U.S.S.G. § 1B1.2(d) does not apply. Both the government and the probation office err by treating each overt act as being specifically charged like separate offenses; their reading is inconsistent with the language of the indictment.

Moreover, even if the indictment did make out a conspiracy to make out more than one offense, the plea here did not establish which overt act(s) were the object of the conspiracy. Thus, this Court could only apply §1B1.2(d) with respect to any object offense if this Court would have convicted Mr. Smith of conspiring to commit that particular object offense. *See* U.S.S.G. § 1B1.2 at Application Note 4. The government and the Probation Office ignore this step of the analysis by assuming that a conspiracy to commit each overt act was established. The record here has not

established that Mr. Smith would have been convicted of conspiring to commit each overt act, and a hearing would be necessary for this Court to make any such determination.

CONCLUSION

Consideration of the factors set forth in 18 U.S.C. § 3553(a) supports a sentence of five years' imprisonment in this case.

Respectfully submitted,

/s/ Linda E.J. Cohn
Linda E.J. Cohn
Assistant Federal Public Defender

March 14,2024

The Honorable Judge Nicholas Ranjan
United States District Judge

Dear Judge Ranjan,

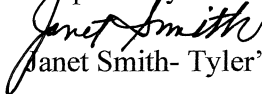
First, I would like to thank you for taking a mother's plea into consideration before handing down your decision. I want you to know that I have been praying for the families of McGuire, the direct care workers who genuinely love and take good care of their clients, and the whole McGuire family. It is truly a special place. My heart aches for the families. I know they will be in court at Tyler's sentencing on behalf of their family member who was disrespected and hurt while in the care of McGuire. They also want to see justice served and want Tyler to be punished. I get that. I know Tyler said many horrible things and he did not report Mr. Dinell and just punishment should be served. And please understand that what I am about to say in no way, shape, or form diminishes the hideous events that transpired over 7 years ago at McGuire Memorial.

As a child Tyler was mischievous and kind of got stuck in the middle between his older and younger brothers. At home, he was a normal little boy who would cause trouble in a playful way; teasing his younger brother, and trying to compete with his older brother, testing his dad and me, vying for attention. Outside of the home- in school, on the playing fields, at his friend's house, in church, at his grandparents, playing with his cousins, at his workplace- there was never a problem. Tyler had many friends growing up. (I remember one of his friends' parents telling me that because her son transferred to public school from a private school, he had difficulty making friends. Tyler knew this and it wasn't long before they formed a tight friendship. Actually, there were two transfer students in his freshman year of high school with whom he forged a friendship) I recall teachers and neighbors telling me that he was so kind and sweet. He was never accused of any inappropriate behavior and has never been in trouble with law enforcement (until these charges).

When I look at my sons (I have three), I see all that I've known them to be and all of what could have been -or could still be if it weren't for OxyContin, then heroin, then marijuana, then synthetic marijuana, then alcohol. **I wish I could turn the clock back to BD- before drugs because I know with every fiber of my being that if it were not for drugs and alcohol we would not be here today. Not moral failings, but the evil that is drug addiction.** You see, Your Honor, addiction (in the form of an innocent pain pill) came into our lives 20 years ago and it brought much chaos and slowly destroyed our happy home. We know all too well the ill -fated choices our sons made to feed their addictions, and they both have paid a heavy price. I humbly ask; can you blame a certain behavior on the addiction and not the person? Have you or someone you know been inebriated or high on drugs to the point of destruction? We know the answer to this question is a resounding yes. How does a young man who was raised in a good loving and caring home and who was given every opportunity to become the person God made him to be knowingly make choices that will send him down a path of destruction? I am not making excuses. I feel it is necessary to know the whole story. The back story. And there are many nightmarish events that shaped our lives over the past 20 years.

For the past 5 years, Tyler has put himself into his own little mental prison cell. The choices he made in a turbulent season of his life have forever changed his life. The sad events that took place at McGuire and subsequent charges have taken a toll on his health and well-being. Tyler has been debilitatingly depressed for the past 3 years. He can barely get out of bed. He gets a job, and they realize his charges and gets fired. This has happened twice in the last 6 months. He was also asked to leave sober living homes for the same reason. He has been living with his family and we are and will always be his loving support system. Your Honor- As Ty's family, we are sorry for what happened, and we pray you can fulfill your commitment to justice tempered with mercy.

Respectfully submitted,


Janet Smith- Tyler's mom

March 27, 2024

The Honorable Judge Nicholas Ranjan
United States District Judge

Your Honor,

I am writing this letter on behalf of my son Tyler Smith who is set to appear before you on April 19th. I understand the seriousness of the charges to which he has plead guilty. He has accepted responsibility for what he did but has struggled with his addiction and debilitating depression.

I am proud of the fact that he has remained clean of drugs and alcohol for nearly a year now. He has continued to find work even after being fired twice due to the nature of his charges. He works a night shift, so he sleeps most of the day. He has continued his drug counseling and will complete the program in his next session. He does choose to isolate himself but enjoys spending time with his brothers and going to the gym.

Tyler is not a threat to society; just to himself. He lives in constant fear of his pending sentencing and what he will face. He is ashamed of the texts he wrote and the poor decisions he made. The choices he made back then are completely out of his character. Tyler is not going to let these mistakes define him. He has never been a hateful person or one to cause anyone pain. His problems began when his addiction took him over and affected his daily decision making and he is working on making sure that does not happen again. He is a good person.

Respectfully submitted,


Brent Smith
Tyler Smith's Dad

March 24, 2024

The Honorable Judge Nicholas Ranjan
United States District Judge

Dear Judge Ranjan,

My name is Vincent Catanzarite, and I am the older brother of Tyler Smith. I thank you in advance for considering my thoughts before handing Tyler his sentence. I am writing this letter so you can get some context regarding my brother.

I want to start by saying that I could have been a better example to my brother during our teenage years and when we became young adults. I had my own issues. When I returned from the military, I brought with me a serious opioid addiction, and that had a negative effect on my family. I set a horrible example for my younger brothers, and I put them through a lot. I used to steal from Tyler, and he did not understand why I was doing what I did. I committed crimes, and I manipulated anyone in my path. I know it really hurt my brother to see me stealing from and lying to our family along with slowly killing myself in front of their eyes, and I know he felt betrayed. I eventually got clean and have been since 2018, but by that time my brother had sunken into his own addiction, alcohol. I committed myself to change and a different life, and I wanted to help my brother get to the same place. That is around the time that these charges were levied against him, and that turned his world upside-down.

Tyler is a gentle, laid-back person who has never even been in a fistfight. I used to have to defend him from other kids when we were growing up, even if Ty was bigger or stronger than them. He is not a violent or abusive person, and I have NEVER seen him act inappropriately in that manner with anyone. Tyler has never been in trouble with the law, and always avoided drama or negative situations. He does not have a hateful bone in his body. I will tell you a short story that sums up the kind of soul my brother has: When Tyler was a senior in high school, one of the kids in our neighborhood shot a squirrel with a pellet gun. The other kids were talking about how it was a great shot, and how they should try to find other game to "hunt." My brother, who by that time looked disturbed, was so upset that the squirrel was shot for no reason, that he insisted we said a prayer for the squirrel and bury it respectfully. That is the kind of person Tyler is.

Tyler has had a very hard time as an adult. His alcoholism combined with depression and the weight of his situation have been drowning him. His low self-confidence and a need to be accepted combined with drinking is what caused him to have such a horrible lapse in judgement regarding his interactions with Mr. Dinell. He should have stayed away from him, and as soon as Tyler saw or heard him do anything wrong around those kids, he should have reported it. Everyone in my family, including Tyler, knows that. As disgusted by those texts as I was, a sober Tyler was even more HORRIFIED than I was when he read the transcript. That is just not how he was raised, nor the kind of person he is. He knows that he did a disservice to the people at McGuire home by not reporting Mr. Dinell, and in that disservice, he also committed a crime. Tyler will never forget when he saw those transcripts, and he told me that they were part of his catalyst for change. Tyler knew he had to get sober, and after a few attempts at treatment did so successfully. He completed rehab multiple times, lived in a three quarters house, and has been sober since July of last year.

Personally, Tyler is devastated. His life has crumbled into ruin. His depression and anxiety have a chokehold on his existence, and his only refuse is sleep. He sleeps for days at a time. His girlfriend left him when he was arrested, and he avoids social situations because he feels everyone is pointing a finger at him. I am truly worried for my brother, and our whole family is praying

everyday that we all can make it through this. He once told me, "I wish I could go to sleep and just never wake up."

I am writing this letter because my brother deserves to have someone speak on his behalf. He is punishing himself to such an extent that in my opinion, jail could not touch the pain he is forcing upon himself. I know how sorry he is for the families of the children affected by this, and how badly he wishes he could go back and behave differently. I know that he wants people to see the "real" Tyler, not the criminal they hear about in the papers. I am filled with dread thinking about Tyler in prison. He is not street-smart and does not have a criminal mindset. I am filled with dread and worry thinking about what could happen to him. We as a family, however, will not make excuses for Tyler. He has made a mistake and deserves JUST punishment. My brother does not have a hateful bone in his body. So, I humbly ask the court, please take all of this into consideration. At heart, Tyler will always be the sweet boy who led a funeral service for a squirrel. Please, help him rehabilitate and make up for the mistakes he made as a young man.

Sincerely,

Vincent Catanzarite

[REDACTED]
Aiken, SC
[REDACTED]

March 27, 2024

The Honorable Judge Nicholas Ranjan
Judge of the United States District Court of Western PA
700 Grant St. #512
Pittsburgh, PA 15219

Dear Judge Ranjan,

I am sending this letter to request leniency on behalf of Tyler Smith who was convicted of conspiracy to commit a hate crime and endangering the welfare of a child.

Tyler is my brother. I am the youngest of three. Ty was in the middle while growing up in the same stable home raised by the most loving parents a kid could ask for. He was very well liked at school and in the neighborhood. He served with me and my brother as an altar boy at church, he volunteered to help the maintenance man with anything he needed. I don't recall my brother being aggressive or bullying anyone growing up. I was always referred to as "Little Ty" in school. I never heard him say anything hateful or was privy to any malicious intent to hate anyone in my entire life. I am not saying my brother is perfect, but these charges are so out of character for him.

Mentally, my brother was in bad shape while he was employed at McGuire Memorial. He had just relapsed and was taking a concoction of pain pills, sleeping pills, and drinking heavily. The texts Tyler wrote were hard for me to stomach. It's just not the person I know him to be. Also, my entire (extended) family must live with the collateral stigma of these charges put against him. I know in my heart that Tyler does not hate anyone. That's just not true. We've all thought long and hard and we just don't see it. He's an addict and he made horrible choices.

I know Tyler painfully regrets his communications with Mr. Dinell. I see my brother every day before I lace up my work boots to go to work. He's lying awake in bed saying, "I can't believe I'm going to prison." It has taken him a long time to accept that fact. I know he is sorry for what he did. I humbly ask for a lenient sentence. I know my brother has to suffer the consequences of his choices. Thank you for taking the time to read this letter.

Respectfully submitted,



Ryan Smith

 ORIGINAL

COURT OF COMMON PLEAS FOR THE COUNTY OF BEAVER
COMMONWEALTH OF PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :
vs. : No. 2084 of 2019
TYLER JAMES SMITH :

TRANSCRIPT of audiotaped recording of testimony
taken and proceedings had in the above-entitled
PLEA AND SENTENCE HEARING before the
HON. KIM TESLA, in Courtroom No. 7, Courthouse,
Beaver, Pennsylvania, on Monday January 11, 2021,
at 9:22 p.m.

JUDY R. ENSLEN
CLERK OF COURTS
2023 OCT 26 A 9:18
BEAVER COUNTY, PA.

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1 APPEARANCES:

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3 LEO J. BOUWERS, ESQUIRE,
4 ASSISTANT DISTRICT ATTORNEY,
5 ON BEHALF OF THE COMMONWEALTH.
6

7 STEVEN TOWNSEND, ESQUIRE,
8 ON BEHALF OF THE DEFENDANT.
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10 PRESENT, THE DEFENDANT, VIA PHONE.
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1 THE DEFENDANT: I do.

2 THE COURT: If I accept your plea and I
3 sentence you, you will provide us an address and
4 phone number. APO will then mail you materials,
5 your probation officer, and his number will be
6 provided to you. You then have to contact that
7 individual. If you do not, a warrant for your
8 arrest will be issued. Do you understand that?

9 THE DEFENDANT: I do, yes.

10 THE COURT: At this point, we have an
11 assistant DA here. He's going to put the terms,
12 first I'm going to swear you in. Raise your right
13 hand.

14 TYLER JAMES SMITH,
15 the Defendant,
16 having been first duly sworn,
17 testified as follows:

18 THE DEFENDANT: Mr. Bouwers, what's the plea
19 agreement in this case?

20 MR. BOUWERS: Your Honor, Leo Bouwers on
21 behalf of the Commonwealth. The plea is a no
22 contest to endangering the welfare of a child as a
23 misdemeanor of the first degree, two years'
24 probation. Defendant to have no contact with the
25 minor victim.

1 THE COURT: Okay. Mr. Smith.

2 THE DEFENDANT: Yes.

3 THE COURT: A misdemeanor of the first degree
4 has a potential maximum of five years imprisonment.
5 Do you understand that?

6 THE DEFENDANT: I do.

7 THE COURT: And a \$10,000 maximum is what
8 could be imposed by the Court. Do you understand
9 that?

10 THE DEFENDANT: I understand it.

11 THE COURT: Are you on probation or parole for
12 anything?

13 THE DEFENDANT: No, I am not.

14 THE COURT: If you were, this would constitute
15 a violation of anything that you're on supervision,
16 and you could do jail time independent of that. Do
17 you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. Mr. Bouwers, it says
20 offer of no contest. I'm presuming you mean nolo
21 contendere.

22 MR. BOUWERS: Yes, Your Honor.

23 THE COURT: Most important factor in my own
24 mind is that I notice the affidavit said that this
25 was an alleged assault on a 13-year-old patient at

1 McGuire Home. Did this 13-year-old incur any
2 physical injuries?

3 MR. BOUWERS: Your Honor, for purposes of this
4 plea, I don't believe that that answer needs to be
5 made.

6 THE COURT: Well, for me to accept it, I need
7 to know it.

8 MR. BOUWERS: Well, Your Honor, there's a
9 couple of things that I need to put on the record,
10 if the Court wants to go down that path.

11 THE COURT: I will go down that path, but go
12 ahead.

13 MR. BOUWERS: First of all, we were unable to
14 charge assault charges due to the statute of
15 limitations that applied in this matter.

16 Second, we believe that the actions firmly
17 constitute endangering the welfare of a child.

18 Third, in regards to any injuries, we did a
19 thorough investigation of all of the medical
20 reports and history at McGuire Memorial which were
21 turned over to us. We were unable to locate any
22 specific injuries to the minor that stemmed
23 directly from this incident. We believe we have
24 the date and time of the incident, and we have the
25 medical records of the patient at that time, the

1 resident at McGuire Memorial, and we did not find
2 any specific incidents or injuries that we could
3 tie directly to this act.

4 THE COURT: All right. So there is no
5 restitution claimed in this case?

6 MR. BOUWERS: Correct.

7 THE COURT: Next question that is important to
8 me, it says "Okayed by phone." Are we talking
9 about both mother and father of the minor that has
10 consented to this plea agreement?

11 MR. BOUWERS: First of all, Your Honor, this
12 is a memo signed by myself as an assistant district
13 attorney. I take my responsibilities very
14 seriously. I would never submit a memo to the
15 Court that was not, in fact, approved by all
16 necessary parties.

17 To answer the Court, this was okayed
18 specifically by biological mother. The child in
19 this, in this matter does not have a biological
20 father who is active in his life and taking any
21 kind of legal responsibilities whatsoever. So all
22 necessary parties, Your Honor, including the police
23 station, we did not deem McGuire Memorial to have a
24 say in this plea matter, Your Honor, but this is
25 approved by the chief of police of New Brighton, by

1 the filing detective Officer Pisano, and by the
2 biological mother of the minor child.

3 THE COURT: Okay. And this is a nolo
4 contendere plea?

5 MR. BOUWERS: That's the offer, yes,
6 Your Honor.

7 THE COURT: All right. First, Mr. Smith, let
8 me explain to you what nolo contendere means.
9 There are two ways in which you could enter a plea.
10 One is pleading guilty. That means that you're
11 going to say and admit everything that you did as a
12 plea of guilty.

13 Nolo contendere is a different way of entering
14 a plea. What happens there is that during this
15 plea, I'll turn to the Commonwealth and I'll ask
16 him, if this case went to trial, what would you
17 prove, and he'll put it on the record.

18 Nolo contendere is entering a plea of no
19 contest to the factual allegations made by the
20 Commonwealth. Whether you plead guilty or plead
21 nolo contendere to endangering the welfare of
22 children, you will have a conviction for
23 endangering the welfare. It is just another way of
24 getting to the, we'll just say, conviction for
25 endangering the welfare of a child. Do you

1 understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Now your counsel will take over,
4 and we'll go through a plea colloquy.

5 Mr. Townsend.

6 MR. TOWNSEND: Thank you. May it please the
7 Court, Steve Townsend on behalf of Tyler Smith.

8 Mr. Smith, can you hear me?

9 THE DEFENDANT: Yes, I can hear you, Steve.

10 MR. TOWNSEND: All right. Mr. Smith, could you
11 please state your name and spell your first and
12 last name?

13 THE DEFENDANT: Tyler Smith, T-Y-L-E-R
14 S-M-I-T-H.

15 MR. TOWNSEND: Tyler, where do you reside?

16 THE DEFENDANT: I reside at 2043 Mercer Road,
17 New Brighton, Pennsylvania.

18 MR. TOWNSEND: And that's 15066?

19 THE DEFENDANT: Yes. Correct.

20 MR. TOWNSEND: All right. How old are you
21 today, Mr. Smith?

22 THE DEFENDANT: I'm 30 years old.

23 MR. TOWNSEND: All right. And what's the
24 highest grade of education that you completed?

25 THE DEFENDANT: I have some college, and I

1 have a diploma.

2 MR. TOWNSEND: All right. So is it fair to say
3 that you understand English, read and write?

4 THE DEFENDANT: Yes.

5 MR. TOWNSEND: All right. I'm going to go
6 through some, I'm going to go through some
7 questions, and these questions are contained in the
8 nolo contendere plea colloquy. Do you recall
9 receiving a nolo contendere plea colloquy from me
10 by e-mail?

11 THE DEFENDANT: Yes.

12 MR. TOWNSEND: Did you review that colloquy?

13 THE DEFENDANT: I did, yes.

14 MR. TOWNSEND: Did you answer those questions
15 in that colloquy truthfully and honestly?

16 THE DEFENDANT: Yes.

17 MR. TOWNSEND: All right. Mr. Smith, you
18 understand that by entering a nolo contendere plea,
19 that has the same effect as a guilty plea? Do you
20 understand that?

21 THE DEFENDANT: Yeah.

22 MR. TOWNSEND: All right. Is it your intention
23 today to enter this nolo contendere plea?

24 THE DEFENDANT: Yes.

25 MR. TOWNSEND: Has anybody forced, threatened,

1 or coerced you to do so?

2 THE DEFENDANT: No.

3 MR. TOWNSEND: Do you understand the nature of
4 the charges that have been alleged against you?

5 THE DEFENDANT: Yes.

6 MR. TOWNSEND: Do you understand the maximum
7 possible penalties that could be imposed of the
8 statute for a first-degree misdemeanor?

9 THE DEFENDANT: Yes.

10 MR. TOWNSEND: Mr. Smith, are you taking any
11 drugs or alcohol at this time?

12 THE DEFENDANT: No.

13 MR. TOWNSEND: Are you under the influence or
14 care of a physician for any mental health issues?

15 THE DEFENDANT: No.

16 MR. TOWNSEND: Can you understand what,
17 everything that's going on this morning as well as
18 what the Court has explained to you?

19 THE DEFENDANT: Yes.

20 MR. TOWNSEND: Do you understand that you have
21 a right to go to trial in this case?

22 THE DEFENDANT: Yes.

23 MR. TOWNSEND: Do you understand that you would
24 have a right to have a jury trial or a trial by the
25 Court itself?

1 THE DEFENDANT: Yes.

2 MR. TOWNSEND: Do you understand you would have
3 a right to call witnesses, cross-examine the
4 Commonwealth's witnesses, and present evidence on
5 your own?

6 THE DEFENDANT: Yes.

7 MR. TOWNSEND: Do you understand that by giving
8 it, you're going to give up those rights when you
9 accept a nolo contendere plea in this case?

10 THE DEFENDANT: Yes.

11 MR. TOWNSEND: Has anybody promised you
12 anything other than the plea offer that was
13 presented to you?

14 THE DEFENDANT: No.

15 MR. TOWNSEND: Do you have any questions with
16 regard to any question that was contained in that
17 Guilty Plea Colloquy?

18 THE DEFENDANT: No.

19 MR. TOWNSEND: If I asked you each and every
20 one of those questions today here in open court,
21 would you answer them exactly as you've answered
22 them on this document?

23 THE DEFENDANT: Yes.

24 MR. TOWNSEND: Mr. Smith, this document is
25 dated January 11, 2021. Do I have your permission

1 to sign your name on your behalf for this Guilty
2 Plea Colloquy?

3 THE DEFENDANT: Yes.

4 MR. TOWNSEND: Your Honor, with that, I would
5 move for admission of the Guilty Plea Colloquy.

6 THE COURT: It's made, it's made part of the
7 record.

8 MR. TOWNSEND: Mr. Smith, there are certain
9 facts that have been alleged in this case.
10 Specifically, it's alleged that on March 6, 2017 --

11 THE COURT: Wait a minute. Wait a minute. If
12 we're going to talk about what he's going to enter
13 a no contest, I was going to turn to the ADA to put
14 that on the record.

15 MR. TOWNSEND: Okay. That's fine.

16 THE COURT: Sir, I'm now going to turn to the
17 ADA who's going to put the allegations that he
18 would prove at trial on the record.

19 Mr. Bouwers, you may go right by the --

20 MR. BOUWERS: Yes, Your Honor.

21 Should this case proceed to trial, Your Honor,
22 the Commonwealth would show that in or around
23 February of 2019 during the investigation of
24 another individual named Zachary Dinell,
25 investigators located video files which showed the

1 Defendant in this matter, Tyler Smith, jumping from
2 the rail of the bed and landing on a 13-year-old
3 juvenile patient at McGuire Memorial. The
4 investigation would show that the Defendant at the
5 time was working as an employee of
6 McGuire Memorial, that the juvenile patient
7 suffered from severe mental and physical
8 disabilities, and that the jumping action of the
9 Defendant onto the child knowingly endangered the
10 welfare of a child by violating a duty of care,
11 protection, and support.

12 THE COURT: Do you enter a plea of no contest
13 to those allegations?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you authorize your attorney to
16 sign your signature on your behalf? I'm going to
17 hand down the information.

18 THE DEFENDANT: Yes. Yes, sir.

19 THE COURT: Now, sir, I want you to understand
20 that I will only accept this plea on certain
21 conditions. One, the Sentence Order I'm going to
22 tell you up front is that you're not going to
23 volunteer or be employed in any activity that
24 involves supervision or care of minor children
25 except your own, and, two, that you're not going to

1 volunteer or work in the area of patient care. Do
2 you understand that?

3 THE DEFENDANT: I understand, yes.

4 MR. TOWNSEND: Mr. Smith, I am entering,
5 signing a document, the criminal information,
6 entering the nolo contendere plea to Count 1 of
7 endangering the welfare of children, a Misdemeanor
8 1. Do you authorize me to sign on your behalf that
9 criminal information entering to that plea?

10 THE DEFENDANT: Yes, I do.

11 MR. BOUWERS: Your Honor, this information has
12 been signed as indicated by defense counsel, but
13 the Defendant has waived formal arraignment and
14 signed the nolo contendere to Count 1 as a
15 misdemeanor of the first degree. I'd ask that the
16 Court accept that.

17 THE COURT: Okay. The information's made part
18 of the record.

19 Mr. Smith, state on the record your address
20 and phone number please, slowly.

21 THE DEFENDANT: My address is
22 2043 Mercer Road, New Brighton, PA.

23 What was the other question?

24 THE COURT: And your phone number.

25 THE DEFENDANT: My phone number is

1 724-495-0099.

2 MR. TOWNSEND: It's on the colloquy.

3 THE COURT: Remember what I told you about how
4 APO will contact you by mail and you must contact
5 them?

6 THE DEFENDANT: Okay.

7 THE COURT: Do you waive your right to a
8 presentence report so that I can sentence you?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Mr. Bouwers, place in
11 the record the guidelines, any special requests
12 that you have.

13 MR. BOUWERS: Your Honor, the Defendant has a
14 prior record score of 0. The OGS for this offense
15 is a 5. The standard range is RS to 90. We are
16 within that with the plea.

17 Your Honor, I would just ask the Court to
18 accept the plea as offered by the Commonwealth and
19 accepted by the Defendant.

20 THE COURT: Mr. Townsend, tell me about your
21 client. I mean --

22 MR. TOWNSEND: Your Honor, my client --

23 THE COURT: -- apparently, he has a college
24 education.

25 MR. TOWNSEND: Your Honor, my client's 30 years

1 old. He does have a prior, 0 prior record score.
2 He does have some college. He did not graduate.
3 He is employed.

4 Tyler, where's you employed, where are you
5 employed now?

6 THE DEFENDANT: At Mine Safety Appliances,
7 M-I-N-E. Mine Safety Appliances in
8 Cranberry Township, Pennsylvania.

9 MR. TOWNSEND: He is single, Your Honor, with
10 no issue. We're asking that the Court accept the
11 terms of probation as well as the conditions that
12 Your Honor has already imposed as conditions of the
13 plea.

14 THE COURT: Mr. Smith, you have a right to
15 allocution. In other words, to tell me anything
16 that I should, that you want me to know before I
17 impose sentence. What do you wish to tell me about
18 this incident or anything you want me to consider?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: How much do you earn per month?

21 THE DEFENDANT: In a month, \$2,500.

22 THE COURT: Mr. Bouwers, what should be the
23 fine?

24 Mr. Townsend, what should be the fine?

25 MR. BOUWERS: Your Honor, I'm not sure --

1 THE COURT: My viewpoint is not deminimizing
2 the crime. I just don't see, I'd rather have him
3 do my conditions than fine personally, but...

4 MR. BOUWERS: Your Honor, I don't have an
5 interest in the fine.

6 MR. TOWNSEND: Your Honor, I don't believe that
7 the interests of justice would be served by
8 imposing a fine on Mr. Smith.

9 THE COURT: Well, all right. Based upon the
10 sentencing cofactors, the sentencing guidelines,
11 the terms of the plea agreement which were approved
12 by the parent of the minor victim, also approved by
13 law enforcement, I sentence the Defendant to
14 two years of probation under the supervision of
15 Beaver County Adult Probation.

16 And the plea agreement did not provide for
17 restrictive probation; is that correct?

18 MR. BOUWERS: That is correct, Your Honor.
19 Straight probation.

20 THE COURT: Give me one second here.

21 John, I need a non-, a regular probation
22 order, not a restrictive probation.

23 If the deal is what it is, I will sentence him
24 consistent with the deal.

25 Wait a second here. I've got one they copied.

1 I'm okay.

2 Defendant is sentenced to probation for a
3 period of two years under the supervision of
4 Beaver County Adult Probation on condition that
5 Defendant pay the cost of prosecution. Based upon
6 what I heard in open Court, I'm not going to
7 deminimize the crime, but I see no legitimate
8 purpose of the fine. You'll pay a fine in the
9 amount of \$1, pay monthly supervision fee, all
10 applicable statutory fees and costs as required.
11 Abide by the rules and regulations of
12 Adult Probation. Undergo an evaluation,
13 counseling, or treatment as directed by
14 Adult Probation. In addition, Defendant shall
15 undergo a drug and alcohol evaluation, complete all
16 recommended treatment. Compliance is determined by
17 Adult Probation. Defendant shall undergo
18 cooccurring diagnostic evaluation with Merakey and
19 complete all recommended treatment.

20 There is no additional cost requested by the
21 Commonwealth. There's no restitution requested by
22 the Commonwealth.

23 Defendant shall have no contact with the minor
24 victim, the minor victim's family, or their
25 property.

1 Based upon this being an M-1 offense,
2 Defendant shall submit to DNA testing.

3 Special conditions that the Court imposes:

4 That you submit to frequent random drug and
5 alcohol screen tests performed by Adult Probation.

6 Complete a job training, job search program
7 approved by APO, if unemployed.

8 Not have any contact, direct or indirect, with
9 minor children, except his own minor children,
10 unless supervised by a responsible adult.

11 Not volunteer or be employed in any activity
12 or job that involves the supervision or care of
13 minor children except his own.

14 Not volunteer or work in the area of patient
15 care.

16 Not have access to a cell phone or internet
17 unless approved by Adult Probation.

18 Defendant is directed to complete the drug and
19 alcohol evaluation and mental health evaluation as
20 approved by Adult Probation within 20 days of this
21 Sentence Order.

22 Because of abuse of a minor child, APO is to
23 monitor this case closely to determine if Defendant
24 has completed drug and alcohol treatment and mental
25 health treatment.

1 Adult Probation is directed to have, at
2 minimum, contact with the Defendant every other
3 week for the first six months to ensure Defendant's
4 compliance with the special conditions of the
5 Sentence Order.

6 Those are my conditions.

7 Do you understand my Sentence Order?

8 THE DEFENDANT: Yes, I understand.

9 THE COURT: Mr. Townsend.

10 MR. TOWNSEND: Yes, Your Honor.

11 THE COURT: Advise him of his postsentence
12 rights.

13 MR. TOWNSEND: Mr. Smith, I sent you a document
14 by e-mail entitled Statement of Rights Following
15 Sentence that explains your rights to file
16 postsentence motions within 10 days and file a
17 direct appeal within 30 days. Did you receive that
18 document?

19 THE DEFENDANT: I did, yeah.

20 MR. TOWNSEND: Did you answer those questions
21 truthfully?

22 THE DEFENDANT: Yes.

23 MR. TOWNSEND: Do you have any questions with
24 regard to that, your appellate rights?

25 THE DEFENDANT: I do not.

1 MR. TOWNSEND: Mr. Smith, do I have your
2 permission to sign on your behalf as Defendant on
3 the last page of the Statement of, Defendant's
4 Statement of Rights Following Sentence?

5 THE DEFENDANT: Yes, you do.

6 MR. TOWNSEND: Your Honor, with that, I would
7 move for the admission of the Statement of Rights
8 Following Sentence.

9 THE COURT: It's made part of the record.

10 THE TIPSTAFF: We need his address again.

11 MR. TOWNSEND: It's in, it's on the colloquy.

12 THE TIPSTAFF: (Indiscernible.)

13 MR. TOWNSEND: Huh?

14 THE TIPSTAFF: Please give me his address
15 again.

16 MR. TOWNSEND: Yeah, I had to get it off the
17 colloquy.

18 THE TIPSTAFF: He can state it.

19 MR. TOWNSEND: Tyler, what's your address?

20 THE DEFENDANT: My address is
21 2043 Mercer Road, New Brighton, Pennsylvania.

22 MR. TOWNSEND: Zip code?

23 THE DEFENDANT: 15066.

24 MR. TOWNSEND: Thank you.

25 THE TIPSTAFF: Thank you.

1 MR. TOWNSEND: Okay.

2 THE DEFENDANT: You're welcome.

3 THE COURT: All right. Mr. Townsend, you have
4 to understand, we have to e-mail APO a list after
5 every expedited --

6 MR. TOWNSEND: That shouldn't happen. It was
7 on the colloquy. I was going to have to read it
8 from there.

9 THE COURT: All right. I want you to know, I
10 understand you have to work, but in view of how the
11 phone was used, and had, I expect that you're,
12 obviously APO is going to allow you to use your
13 cell phone, but it's going to be approved by them.
14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. At this point, our
17 proceeding is concluded.

18 MR. TOWNSEND: Thank you, Your Honor.

19 MR. BOUWERS: Thank you, Your Honor.

20 THE COURT: John, here's the order.

21 (WHEREUPON, the proceedings on Monday,
22 January 11, 2021, were concluded.)

23

24

25

STENOGRAPHER'S CERTIFICATE

I hereby certify that the audiotaped evidence and proceedings in the above-entitled matter were transcribed, and that this copy is a full, true, and accurate transcript of the above, to the best of my ability.

Karen Schiaroti

Official Court Reporter

O R D E R

AND, NOW, this 26th day of Oct, A.D., 2023, I hereby approve said copy and direct that it be filed.

[Signature]

J.

KIM TESLA
JUDGE

2023 OCT 26 A 10:36

BY THE COURT

BEAVER COUNTY, PA.

2023 OCT 26 A 11:05

JUDY R. ENSLEN
CLERK OF COURTS

| \$ | A | APPEARANCES [1] - 2:1 | C | conditions [7] - 14:21, 17:11, 17:12, 18:3, 20:3, 21:4, 21:6 |
|---|---|--|---|---|
| \$10,000 [1] - 5:7 \$2,500 [1] - 17:21 | A.D [1] - 24:16 abide [1] - 19:11 ability [1] - 24:7 | appellate [1] - 21:24 Appliances [2] - 17:6, 17:7 | care [6] - 11:14, 14:10, 14:24, 15:1, 20:12, 20:15 | consented [1] - 7:10 consider [1] - 17:18 consistent [1] - 18:24 |
| 0 | above-entitled [2] - 1:10, 24:4 | applicable [1] - 19:10 | case [10] - 3:2, 3:9, 4:19, 7:5, 8:16, 11:21, 12:9, 13:9, 13:21, 20:23 | constitute [2] - 5:14, 6:17 |
| 0 [2] - 16:14, 17:1 | abuse [1] - 20:22 | applied [1] - 6:15 | cell [2] - 20:16, 23:13 | contact [7] - 4:6, 4:24, 16:4, 19:23, 20:8, 21:2 |
| 1 | accept [7] - 4:2, 6:6, 12:9, 14:20, 15:16, 16:18, 17:10 | approve [1] - 24:16 | CERTIFICATE [1] - 24:1 | contacted [1] - 3:12 |
| 1 [4] - 15:6, 15:8, 15:14, 19:9 10 [1] - 21:16 11 [3] - 1:13, 12:25, 23:22 13-year-old [3] - 5:25, 6:1, 14:2 15066 [2] - 9:18, 22:23 | accepted [1] - 16:19 access [1] - 20:16 accurate [1] - 24:6 act [1] - 7:3 action [1] - 14:8 actions [1] - 6:16 active [1] - 7:20 activity [2] - 14:23, 20:11 ADA [2] - 13:13, 13:17 addition [1] - 19:14 additional [1] - 19:20 address [7] - 4:3, 15:19, 15:21, 22:10, 22:14, 22:19, 22:20 admission [2] - 13:5, 22:7 admit [1] - 8:11 adult [1] - 20:10 Adult [9] - 18:15, 19:4, 19:12, 19:14, 19:17, 20:5, 20:17, 20:20, 21:1 advise [1] - 21:11 affidavit [1] - 5:24 agreement [4] - 4:19, 7:10, 18:11, 18:16 ahead [1] - 6:12 alcohol [5] - 11:11, 19:15, 20:5, 20:19, 20:24 allegations [3] - 8:19, 13:17, 14:13 alleged [4] - 5:25, 11:4, 13:9, 13:10 allocation [1] - 17:15 allow [1] - 23:12 amount [1] - 19:9 AND [2] - 1:11, 24:15 answer [5] - 6:4, 7:17, 10:14, 12:21, 21:20 answered [1] - 12:21 APO [6] - 4:4, 16:4, 20:7, 20:22, 23:4, 23:12 appeal [1] - 21:17 | approved [8] - 7:15, 7:25, 18:11, 18:12, 20:7, 20:17, 20:20, 23:13 area [2] - 15:1, 20:14 arraignment [1] - 15:13 arrest [1] - 4:8 assault [2] - 5:25, 6:14 assistant [2] - 4:11, 7:12 ASSISTANT [1] - 2:4 attorney [2] - 7:13, 14:15 ATTORNEY [1] - 2:4 audiotaped [2] - 1:9, 24:3 authorize [2] - 14:15, 15:8 | CERTIFICATE [1] - 24:1 certify [1] - 24:3 charge [1] - 6:14 charges [2] - 6:14, 11:4 chief [1] - 7:25 child [8] - 4:22, 6:17, 7:18, 8:2, 8:25, 14:9, 14:10, 20:22 children [6] - 8:22, 14:24, 15:7, 20:9, 20:13 claimed [1] - 7:5 client [2] - 16:21, 16:22 client's [1] - 16:25 closely [1] - 20:23 code [1] - 22:22 coerced [1] - 11:1 cofactors [1] - 18:10 college [3] - 9:25, 16:23, 17:2 Colloquy [3] - 12:17, 13:2, 13:5 colloquy [9] - 9:4, 10:8, 10:9, 10:12, 10:15, 16:2, 22:11, 22:17, 23:7 COMMON [1] - 1:1 Common [1] - 3:18 COMMONWEALTH [3] - 1:2, 1:5, 2:5 Commonwealth [8] - 3:3, 4:21, 8:15, 8:20, 13:22, 16:18, 19:21, 19:22 Commonwealth's [1] - 12:4 complete [4] - 19:15, 19:19, 20:6, 20:18 completed [2] - 9:24, 20:24 compliance [2] - 19:16, 21:4 concluded [2] - 23:17, 23:22 condition [1] - 19:4 | contested [2] - 10:7, 12:16 contendere [13] - 5:21, 8:4, 8:8, 8:13, 8:18, 8:21, 10:8, 10:9, 10:18, 10:23, 12:9, 15:6, 15:14 contest [5] - 4:22, 5:20, 8:19, 13:13, 14:12 conviction [2] - 8:22, 8:24 cooccurring [1] - 19:18 copied [1] - 18:25 copy [2] - 24:5, 24:16 correct [4] - 7:6, 9:19, 18:17, 18:18 cost [2] - 19:5, 19:20 costs [1] - 19:10 counsel [2] - 9:3, 15:12 counseling [1] - 19:13 Count [2] - 15:6, 15:14 County [2] - 18:15, 19:4 COUNTY [1] - 1:1 couple [1] - 6:9 Court [14] - 3:18, 5:8, 6:10, 7:15, 7:17, 9:7, 11:18, 11:25, 15:16, 16:17, 17:10, 19:6, 20:3, 24:10 COURT [48] - 1:1, 3:2, 3:8, 3:14, 3:17, 3:23, 4:2, 4:10, 5:1, 5:3, 5:7, 5:11, 5:14, 5:19, 5:23, 6:6, 6:11, 7:4, 7:7, 8:3, 8:7, 9:3, 13:6, 13:11, 13:16, 14:12, 14:15, 14:19, 15:17, 15:24, 16:3, 16:7, 16:10, 16:20, 16:23, 17:14, 17:20, |
| 2 | | B | | |
| 20 [1] - 20:20 2017 [1] - 13:10 2019 [3] - 1:6, 3:4, 13:23 2021 [3] - 1:13, 12:25, 23:22 2023 [1] - 24:16 2043 [3] - 9:16, 15:22, 22:21 2084 [1] - 1:6 284 [1] - 3:4 | | based [3] - 18:9, 19:5, 20:1 BEAVER [1] - 1:1 Beaver [3] - 1:13, 18:15, 19:4 bed [1] - 14:2 behalf [6] - 4:21, 9:7, 13:1, 14:16, 15:8, 22:2 BEHALF [2] - 2:5, 2:8 best [1] - 24:7 biological [3] - 7:18, 7:19, 8:2 BOUWERS [16] - 2:3, 4:20, 5:22, 6:3, 6:8, 6:13, 7:6, 7:11, 8:5, 13:20, 15:11, 16:13, 17:25, 18:4, 18:18, 23:19 Bouwers [7] - 3:5, 4:18, 4:20, 5:19, 13:19, 16:10, 17:22 Brighton [4] - 7:25, 9:17, 15:22, 22:21 but.. [1] - 18:3 | | |
| 3 | | | | |
| 30 [3] - 9:22, 16:25, 21:17 | | | | |
| 5 | | | | |
| 5 [1] - 16:15 | | | | |
| 6 | | | | |
| 6 [1] - 13:10 | | | | |
| 7 | | | | |
| 7 [2] - 1:12, 3:20 724-495-0099 [1] - 16:1 | | | | |
| 9 | | | | |
| 90 [1] - 16:15 9:22 [1] - 1:14 | | | | |

| | | | | |
|--|---|--|---|---|
| 17:22, 18:1, 18:9, 18:20, 21:9, 21:11, 22:9, 23:3, 23:9, 23:16, 23:20 court [1] - 12:20 Courtroom [1] - 1:12 Courtroom [2] - 1:12, 3:20 COVID-19 [1] - 3:24 Cranberry [1] - 17:8 crime [2] - 18:2, 19:7 CRIMINAL [1] - 1:3 criminal [2] - 15:5, 15:9 cross [1] - 12:3 cross-examine [1] - 12:3 | 5:3, 11:8, 15:15 deminimize [1] - 19:7 deminimizing [1] - 18:1 detective [1] - 8:1 determine [1] - 20:23 determined [1] - 19:16 diagnostic [1] - 19:18 different [1] - 8:13 Dinell [1] - 13:24 diploma [1] - 10:1 direct [3] - 20:8, 21:17, 24:16 directed [3] - 19:13, 20:18, 21:1 directly [2] - 6:23, 7:3 disabilities [1] - 14:8 DISTRICT [1] - 2:4 district [1] - 7:12 DIVISION [1] - 1:3 DNA [1] - 20:2 document [5] - 12:22, 12:24, 15:5, 21:13, 21:18 down [3] - 6:10, 6:11, 14:17 drug [4] - 19:15, 20:4, 20:18, 20:24 drugs [1] - 11:11 due [1] - 6:14 duly [1] - 4:16 during [2] - 8:14, 13:23 duty [1] - 14:10 | enter [4] - 8:9, 10:23, 13:12, 14:12 entering [6] - 8:13, 8:18, 10:18, 15:4, 15:6, 15:9 entitled [3] - 1:10, 21:14, 24:4 ESQUIRE [2] - 2:3, 2:7 evaluation [5] - 19:12, 19:15, 19:18, 20:19 evidence [2] - 12:4, 24:4 exactly [1] - 12:21 examine [1] - 12:3 except [3] - 14:25, 20:19, 20:13 expect [1] - 23:11 expedited [1] - 23:5 explain [1] - 8:8 explained [1] - 11:18 explains [1] - 21:15 | G glad [1] - 3:5 grade [1] - 9:24 graduate [1] - 17:2 guidelines [2] - 16:11, 18:10 guilty [4] - 8:10, 8:12, 8:20, 10:19 Guilty [3] - 12:17, 13:1, 13:5 | 22:12 individual [2] - 4:7, 13:24 influence [1] - 11:13 information [4] - 14:17, 15:5, 15:9, 15:11 information's [1] - 15:17 injuries [4] - 6:2, 6:18, 6:22, 7:2 intention [1] - 10:22 interest [1] - 18:5 interests [1] - 18:7 internet [1] - 20:16 investigation [3] - 6:19, 13:23, 14:4 investigators [1] - 13:25 involves [2] - 14:24, 20:12 issue [1] - 17:10 issued [1] - 4:8 issues [1] - 11:14 itself [1] - 11:25 |
| D | | | H hand [2] - 4:13, 14:17 health [3] - 11:14, 20:19, 20:25 hear [2] - 9:8, 9:9 heard [1] - 19:6 HEARING [1] - 1:11 hello [1] - 3:14 hereby [2] - 24:3, 24:16 highest [1] - 9:24 history [1] - 6:20 home [1] - 6:1 HON [1] - 1:12 honestly [1] - 10:15 Honor [27] - 4:20, 5:22, 6:3, 6:8, 7:11, 7:22, 7:24, 8:6, 13:4, 13:20, 13:21, 15:11, 16:13, 16:17, 16:22, 16:25, 17:9, 17:12, 17:19, 17:25, 18:4, 18:6, 18:18, 21:10, 22:6, 23:18, 23:19 | J jail [1] - 5:16 JAMES [2] - 1:7, 4:14 James [4] - 3:4, 3:8, 3:14, 3:15 January [3] - 1:13, 12:25, 23:22 job [3] - 20:6, 20:12 John [2] - 18:21, 23:20 judge [1] - 3:18 jumping [2] - 14:1, 14:8 jury [1] - 11:24 justice [1] - 18:7 juvenile [2] - 14:3, 14:6 |
| DA [1] - 4:11 date [1] - 6:24 dated [1] - 12:25 days [3] - 20:20, 21:16, 21:17 deal [2] - 18:23, 18:24 deem [1] - 7:23 Defendant [20] - 3:12, 4:15, 4:24, 14:1, 14:4, 14:9, 15:13, 16:13, 16:19, 18:13, 19:2, 19:5, 19:14, 19:17, 19:23, 20:2, 20:18, 20:23, 21:2, 22:2 DEFENDANT [59] - 2:8, 2:10, 3:15, 3:22, 4:1, 4:9, 4:18, 5:2, 5:6, 5:10, 5:13, 5:18, 9:2, 9:9, 9:13, 9:16, 9:19, 9:22, 9:25, 10:4, 10:11, 10:13, 10:16, 10:21, 10:24, 11:2, 11:5, 11:9, 11:12, 11:15, 11:19, 11:22, 12:1, 12:6, 12:10, 12:14, 12:18, 12:23, 13:3, 14:14, 14:18, 15:3, 15:10, 15:21, 15:25, 16:6, 16:9, 17:6, 17:19, 17:21, 21:8, 21:19, 21:22, 21:25, 22:5, 22:20, 22:23, 23:2, 23:15 Defendant's [2] - 21:3, 22:3 defense [1] - 15:12 degree [4] - 4:23, | E e-mail [3] - 10:10, 21:14, 23:4 earn [1] - 17:20 education [2] - 9:24, 16:24 effect [1] - 10:19 employed [5] - 14:23, 17:3, 17:4, 17:5, 20:11 employee [1] - 14:5 endangered [1] - 14:9 endangering [6] - 4:22, 6:17, 8:21, 8:23, 8:25, 15:7 enforcement [1] - 18:13 English [1] - 10:3 ensure [1] - 21:3 | F fact [1] - 7:15 factor [1] - 5:23 facts [1] - 13:9 factual [1] - 8:19 fair [1] - 10:2 family [1] - 19:24 father [2] - 7:9, 7:20 February [1] - 13:23 fee [1] - 19:9 fees [1] - 19:10 file [2] - 21:15, 21:16 filed [1] - 24:17 files [1] - 13:25 filing [1] - 8:1 fine [8] - 13:15, 17:23, 17:24, 18:3, 18:5, 18:8, 19:8 firmly [1] - 6:16 first [1] - 4:12, 4:16, 4:23, 5:3, 6:13, 7:11, 8:7, 9:11, 11:8, 15:15, 21:3 first-degree [1] - 11:8 five [1] - 5:4 Following [3] - 21:14, 22:4, 22:8 follows [1] - 4:17 FOR [1] - 1:1 forced [1] - 10:25 formal [1] - 15:13 frequent [1] - 20:4 front [1] - 14:22 full [1] - 24:6 | I important [2] - 5:23, 7:7 impose [1] - 17:17 imposed [3] - 5:8, 11:7, 17:12 imposes [1] - 20:3 imposing [1] - 18:8 imprisonment [1] - 5:4 incident [3] - 6:23, 6:24, 17:18 incidents [1] - 7:2 including [1] - 7:22 incur [1] - 6:1 independent [1] - 5:16 indicated [1] - 15:12 indirect [1] - 20:8 indiscernible [1] - | K KIM [1] - 1:12 Kim [1] - 3:17 kind [1] - 7:21 knowingly [1] - 14:9 |
| | | | | L landing [1] - 14:2 last [2] - 9:12, 22:3 law [1] - 18:13 legal [1] - 7:21 legitimate [1] - 19:7 Leo [1] - 4:20 |

| | | | | |
|--|--|---|--|--|
| <p>LEO [1] - 2:3 life [1] - 7:20 limitations [1] - 6:15 list [1] - 23:4 locate [1] - 6:21 located [1] - 13:25</p> | <p>7:18, 8:2 motions [1] - 21:16 move [2] - 13:5, 22:7 MR [65] - 4:20, 5:22, 6:3, 6:8, 6:13, 7:6, 7:11, 8:5, 9:6, 9:10, 9:15, 9:18, 9:20, 9:23, 10:2, 10:5, 10:12, 10:14, 10:17, 10:22, 10:25, 11:3, 11:6, 11:10, 11:13, 11:16, 11:20, 11:23, 12:2, 12:7, 12:11, 12:15, 12:19, 12:24, 13:4, 13:8, 13:15, 13:20, 15:4, 15:11, 16:2, 16:13, 16:22, 16:25, 17:9, 17:25, 18:4, 18:6, 18:18, 21:10, 21:13, 21:20, 21:23, 22:1, 22:6, 22:11, 22:13, 22:16, 22:19, 22:22, 22:24, 23:1, 23:6, 23:18, 23:19 must [1] - 16:4</p> | <p>offer [3] - 5:20, 8:5, 12:12 offered [1] - 16:18 Officer [1] - 8:1 officer [1] - 4:5 Official [1] - 24:10 OGS [1] - 16:14 Okayed [1] - 7:8 okayed [1] - 7:17 old [3] - 9:20, 9:22, 17:1 ON [2] - 2:5, 2:8 one [6] - 3:7, 8:10, 12:20, 14:21, 18:20, 18:25 open [2] - 12:20, 19:6 order [2] - 18:22, 23:20 Order [4] - 14:21, 20:21, 21:5, 21:7 own [5] - 5:23, 12:5, 14:25, 20:9, 20:13</p> | <p>physician [1] - 11:14 Pisano [1] - 8:1 Pittsburgh [2] - 3:10, 3:11 place [1] - 16:10 Plea [3] - 12:17, 13:2, 13:5 plea [29] - 4:2, 4:18, 4:21, 6:4, 7:10, 7:24, 8:4, 8:9, 8:12, 8:14, 8:15, 8:18, 9:4, 10:8, 10:9, 10:18, 10:19, 10:23, 12:9, 12:12, 14:12, 14:20, 15:6, 15:9, 16:16, 16:18, 17:13, 18:11, 18:16 PLEA [1] - 1:11 plead [2] - 8:20 pleading [1] - 8:10 Pleas [1] - 3:18 PLEAS [1] - 1:1 pleas [1] - 3:23 point [2] - 4:10, 23:16 police [2] - 7:22, 7:25 possible [1] - 11:7 postsentence [2] - 21:11, 21:16 potential [1] - 5:4 PRESENT [1] - 2:10 present [1] - 12:4 presented [1] - 12:13 presentence [1] - 16:8 presuming [1] - 5:20 Probation [9] - 18:15, 19:4, 19:12, 19:14, 19:17, 20:5, 20:17, 20:20, 21:1 probation [10] - 4:5, 4:24, 5:11, 17:11, 18:14, 18:17, 18:19, 18:21, 18:22, 19:2 proceed [1] - 13:21 proceeding [1] - 23:17 proceedings [4] - 1:10, 3:21, 23:21, 24:4 program [1] - 20:6 promised [1] - 12:11 property [1] - 19:25 prosecution [1] - 19:5 protection [1] - 14:11 prove [2] - 8:17, 13:18 provide [2] - 4:3,</p> | <p>18:16 provided [1] - 4:6 purpose [1] - 19:8 purposes [1] - 6:3 put [5] - 4:11, 6:9, 8:17, 13:13, 13:17</p> |
| M | | | | Q |
| <p>M-1 [1] - 20:1 M-I-N-E [1] - 17:7 mail [5] - 4:4, 10:10, 16:4, 21:14, 23:4 manner [1] - 3:24 March [1] - 13:10 materials [1] - 4:4 matter [5] - 6:15, 7:19, 7:24, 14:1, 24:5 maximum [3] - 5:4, 5:7, 11:6 McGuire [6] - 6:1, 6:20, 7:1, 7:23, 14:3, 14:6 mean [2] - 5:20, 16:21 means [2] - 8:8, 8:10 medical [2] - 6:19, 6:25 memo [2] - 7:12, 7:14 Memorial [5] - 6:20, 7:1, 7:23, 14:3, 14:6 mental [4] - 11:14, 14:7, 20:19, 20:24 Merakey [1] - 19:18 Mercer [3] - 9:16, 15:22, 22:21 middle [1] - 3:19 might [1] - 3:11 mind [1] - 5:24 Mine [2] - 17:6, 17:7 minimum [1] - 21:2 minor [12] - 4:25, 6:22, 7:9, 8:2, 14:24, 18:12, 19:23, 19:24, 20:9, 20:13, 20:22 minute [2] - 13:11 misdeemeanor [5] - 4:23, 5:3, 11:8, 15:7, 15:15 Monday [2] - 1:13, 23:21 monitor [1] - 20:23 month [2] - 17:20, 17:21 monthly [1] - 19:9 months [1] - 21:3 morning [1] - 11:17 most [1] - 5:23 mother [3] - 7:9,</p> | | | | <p>questions [7] - 10:7, 10:14, 12:15, 12:20, 21:20, 21:23</p> |
| | N | | | R |
| | <p>name [4] - 3:17, 9:11, 9:12, 13:1 named [1] - 13:24 nature [1] - 11:3 necessary [2] - 7:16, 7:22 need [4] - 6:6, 6:9, 18:21, 22:10 needs [1] - 6:4 never [1] - 7:14 New [4] - 7:25, 9:17, 15:22, 22:21 next [3] - 3:2, 3:7, 7:7 nolo [13] - 5:20, 8:3, 8:8, 8:13, 8:18, 8:21, 10:8, 10:9, 10:18, 10:23, 12:9, 15:6, 15:14 non [1] - 18:21 notice [1] - 5:24 NOW [1] - 24:15 number [5] - 4:4, 4:5, 15:20, 15:24, 15:25</p> | | | <p>rail [1] - 14:2 raise [1] - 4:12 random [1] - 20:4 range [1] - 16:15 rather [1] - 18:2 read [2] - 10:3, 23:7 receive [1] - 21:17 receiving [1] - 10:9 recommended [2] - 19:16, 19:19 record [11] - 6:9, 8:17, 13:7, 13:14, 13:18, 15:18, 15:19, 16:11, 16:14, 17:1, 22:9 recorded [1] - 3:20 recording [1] - 1:9 records [1] - 6:25 regard [2] - 12:16, 21:24 regards [1] - 6:18 regular [1] - 18:21 regulations [1] - 19:11 remember [1] - 16:3 report [1] - 16:8 Reporter [1] - 24:10 reports [1] - 6:20 requested [2] - 19:20, 19:21 requests [1] - 16:11 required [1] - 19:10 reside [2] - 9:15, 9:16 resident [1] - 7:1 respect [1] - 3:24 responsibilities [2] - 7:13, 7:21 responsible [1] - 20:10 restitution [2] - 7:5, 19:21 restrictive [2] - 18:17, 18:22 review [1] - 10:12</p> |
| | O | | | |
| | <p>obviously [1] - 23:12 OF [6] - 1:1, 1:2, 1:5, 2:5, 2:8 offense [2] - 16:14, 20:1</p> | <p>p.m [1] - 1:14 PA [1] - 15:22 page [1] - 22:3 parent [1] - 18:12 parole [1] - 5:11 part [3] - 13:6, 15:17, 22:9 parties [2] - 7:16, 7:22 path [2] - 6:10, 6:11 patient [6] - 5:25, 6:25, 14:3, 14:6, 15:1, 20:14 pay [3] - 19:5, 19:8, 19:9 penalties [1] - 11:7 PENNSYLVANIA [2] - 1:2, 1:5 Pennsylvania [5] - 1:13, 3:3, 9:17, 17:8, 22:21 per [1] - 17:20 performed [1] - 20:5 period [1] - 19:3 permission [2] - 12:25, 22:2 personally [1] - 18:3 PHONE [1] - 2:10 phone [9] - 3:19, 4:4, 7:8, 15:20, 15:24, 15:25, 20:16, 23:11, 23:13 physical [2] - 6:2, 14:7</p> | | |

| | | | | |
|--|---|--|---|--|
| <p>Rights [3] - 21:14, 22:4, 22:7 rights [4] - 12:8, 21:12, 21:15, 21:24 Road [3] - 9:16, 15:22, 22:21 RS [1] - 16:15 rules [1] - 19:11</p> | <p>SMITH [2] - 1:7, 4:14 speaker [1] - 3:19 special [3] - 16:11, 20:3, 21:4 specific [2] - 6:22, 7:2 specifically [2] - 7:18, 13:10 spell [1] - 9:11 standard [1] - 16:15 state [3] - 9:11, 15:19, 22:18 Statement [3] - 21:14, 22:4, 22:7 statement [1] - 22:3 station [1] - 7:23 statute [2] - 6:14, 11:8 statutory [1] - 19:10 stemmed [1] - 6:22 STENOGRAPHER S [1] - 24:1 Steve [2] - 9:7, 9:9 STEVEN [1] - 2:7 straight [1] - 18:19 submit [3] - 7:14, 20:2, 20:4 suffered [1] - 14:7 supervised [1] - 20:10 supervision [6] - 5:15, 14:24, 18:14, 19:3, 19:9, 20:12 support [1] - 14:11 swear [1] - 4:12 sworn [1] - 4:16</p> | <p>9:25, 10:4, 10:11, 10:13, 10:16, 10:21, 10:24, 11:2, 11:5, 11:9, 11:12, 11:15, 11:19, 11:22, 12:1, 12:6, 12:10, 12:14, 12:18, 12:23, 13:3, 13:6, 13:11, 13:16, 14:12, 14:14, 14:15, 14:18, 14:19, 15:3, 15:10, 15:17, 15:21, 15:24, 15:25, 16:3, 16:6, 16:7, 16:9, 16:10, 16:20, 16:23, 17:6, 17:14, 17:19, 17:20, 17:21, 17:22, 18:1, 18:9, 18:20, 21:8, 21:9, 21:11, 21:19, 21:22, 21:25, 22:5, 22:9, 22:10, 22:12, 22:14, 22:18, 22:20, 22:23, 22:25, 23:2, 23:3, 23:9, 23:15, 23:16, 23:20 third [1] - 6:18 thorough [1] - 6:19 threatened [1] - 10:25 tie [1] - 7:3 TIPSTAFF [6] - 3:7, 22:10, 22:12, 22:14, 22:18, 22:25 today [3] - 9:21, 10:23, 12:20 TOWNSEND [1] - 2:7 Townsend [7] - 3:10, 9:5, 9:7, 16:20, 17:24, 21:9, 23:3 Township [1] - 17:8 TOWSEND [50] - 9:6, 9:10, 9:15, 9:18, 9:20, 9:23, 10:2, 10:5, 10:12, 10:14, 10:17, 10:22, 10:25, 11:3, 11:6, 11:10, 11:13, 11:16, 11:20, 11:23, 12:2, 12:7, 12:11, 12:15, 12:19, 12:24, 13:4, 13:8, 13:15, 15:4, 16:2, 16:22, 16:25, 17:9, 18:6, 21:10, 21:13, 21:20, 21:23, 22:1, 22:6, 22:11, 22:13, 22:16, 22:19, 22:22, 22:24, 23:1, 23:6, 23:18 training [1] - 20:6 transcribed [1] - 24:5 TRANSCRIPT [1] -</p> | <p>1:9 transcript [1] - 24:6 treatment [5] - 19:13, 19:16, 19:19, 20:24, 20:25 trial [6] - 8:16, 11:21, 11:24, 13:18, 13:21 true [1] - 24:6 truthfully [2] - 10:15, 21:21 turn [3] - 8:15, 13:13, 13:16 turned [1] - 6:21 two [5] - 4:23, 8:9, 14:25, 18:14, 19:3 TYLER [3] - 1:7, 4:14, 9:13 Tyler [10] - 3:4, 3:8, 3:14, 3:15, 9:7, 9:13, 9:15, 14:1, 17:4, 22:19</p> | <p>ways [1] - 8:9 week [1] - 21:3 welcome [1] - 23:2 welfare [7] - 4:22, 6:17, 8:21, 8:23, 8:25, 14:10, 15:7 whatsoever [1] - 7:21 WHEREUPON [2] - 3:12, 23:21 wish [1] - 17:17 witnesses [2] - 12:3, 12:4 words [1] - 17:15 write [1] - 10:3</p> |
| S | T | U | U | Y |
| <p>S-M-I-T-H [1] - 9:14 Safety [2] - 17:6, 17:7 score [2] - 16:14, 17:1 screen [1] - 20:5 search [1] - 20:6 second [3] - 6:16, 18:20, 18:25 see [3] - 3:5, 18:2, 19:7 sent [1] - 21:13 SENTENCE [1] - 1:11 sentence [5] - 4:3, 16:8, 17:17, 18:13, 18:23 Sentence [7] - 14:21, 20:21, 21:5, 21:7, 21:15, 22:4, 22:8 sentenced [1] - 19:2 sentencing [2] - 18:10 seriously [1] - 7:14 serve [1] - 3:18 served [1] - 18:7 seventh [1] - 3:8 severe [1] - 14:7 shall [4] - 19:14, 19:17, 19:23, 20:2 show [2] - 13:22, 14:4 showed [1] - 13:25 sign [4] - 13:1, 14:16, 15:8, 22:2 signature [1] - 14:16 signed [3] - 7:12, 15:12, 15:14 signing [1] - 15:5 single [1] - 17:9 six [1] - 21:3 slowly [1] - 15:20 Smith [22] - 3:4, 3:8, 3:14, 3:15, 5:1, 8:7, 9:7, 9:8, 9:10, 9:13, 9:21, 10:17, 11:10, 12:24, 13:8, 14:1, 15:4, 15:19, 17:14, 18:8, 21:13, 22:1</p> | <p>tape [1] - 3:20 telephone [1] - 3:13 terms [3] - 4:11, 17:11, 18:11 TESLA [1] - 1:12 Tesla [1] - 3:17 testified [1] - 4:17 testimony [1] - 1:9 testing [1] - 20:2 tests [1] - 20:5 THE [114] - 1:1, 2:5, 2:8, 2:10, 3:2, 3:7, 3:8, 3:14, 3:15, 3:17, 3:22, 3:23, 4:1, 4:2, 4:9, 4:10, 4:18, 5:1, 5:2, 5:3, 5:6, 5:7, 5:10, 5:11, 5:13, 5:14, 5:18, 5:19, 5:23, 6:6, 6:11, 7:4, 7:7, 8:3, 8:7, 9:2, 9:3, 9:9, 9:13, 9:16, 9:19, 9:22,</p> | <p>thorought [1] - 6:19 threatened [1] - 10:25 tie [1] - 7:3 TIPSTAFF [6] - 3:7, 22:10, 22:12, 22:14, 22:18, 22:25 today [3] - 9:21, 10:23, 12:20 TOWNSEND [1] - 2:7 Townsend [7] - 3:10, 9:5, 9:7, 16:20, 17:24, 21:9, 23:3 Township [1] - 17:8 TOWSEND [50] - 9:6, 9:10, 9:15, 9:18, 9:20, 9:23, 10:2, 10:5, 10:12, 10:14, 10:17, 10:22, 10:25, 11:3, 11:6, 11:10, 11:13, 11:16, 11:20, 11:23, 12:2, 12:7, 12:11, 12:15, 12:19, 12:24, 13:4, 13:8, 13:15, 15:4, 16:2, 16:22, 16:25, 17:9, 18:6, 21:10, 21:13, 21:20, 21:23, 22:1, 22:6, 22:11, 22:13, 22:16, 22:19, 22:22, 22:24, 23:1, 23:6, 23:18 training [1] - 20:6 transcribed [1] - 24:5 TRANSCRIPT [1] -</p> | <p>unable [2] - 6:13, 6:21 under [3] - 11:13, 18:14, 19:3 undergo [3] - 19:12, 19:15, 19:17 unemployed [1] - 20:7 unless [2] - 20:10, 20:17 up [2] - 12:8, 14:22</p> | <p>years [5] - 5:4, 9:22, 16:25, 18:14, 19:3 years' [1] - 4:23</p> |
| S | T | V | V | Z |
| <p>showed [1] - 13:25 sign [4] - 13:1, 14:16, 15:8, 22:2 signature [1] - 14:16 signed [3] - 7:12, 15:12, 15:14 signing [1] - 15:5 single [1] - 17:9 six [1] - 21:3 slowly [1] - 15:20 Smith [22] - 3:4, 3:8, 3:14, 3:15, 5:1, 8:7, 9:7, 9:8, 9:10, 9:13, 9:21, 10:17, 11:10, 12:24, 13:8, 14:1, 15:4, 15:19, 17:14, 18:8, 21:13, 22:1</p> | <p>tape [1] - 3:20 telephone [1] - 3:13 terms [3] - 4:11, 17:11, 18:11 TESLA [1] - 1:12 Tesla [1] - 3:17 testified [1] - 4:17 testimony [1] - 1:9 testing [1] - 20:2 tests [1] - 20:5 THE [114] - 1:1, 2:5, 2:8, 2:10, 3:2, 3:7, 3:8, 3:14, 3:15, 3:17, 3:22, 3:23, 4:1, 4:2, 4:9, 4:10, 4:18, 5:1, 5:2, 5:3, 5:6, 5:7, 5:10, 5:11, 5:13, 5:14, 5:18, 5:19, 5:23, 6:6, 6:11, 7:4, 7:7, 8:3, 8:7, 9:2, 9:3, 9:9, 9:13, 9:16, 9:19, 9:22,</p> | <p>versus [1] - 3:3 VIA [1] - 2:10 victim [3] - 4:25, 18:12, 19:24 victim's [1] - 19:24 video [1] - 13:25 view [2] - 3:24, 23:10 viewpoint [1] - 18:1 violating [1] - 14:10 violation [1] - 5:15 volunteer [4] - 14:23, 15:1, 20:11, 20:14 vs [1] - 1:6</p> | <p>versus [1] - 3:3 VIA [1] - 2:10 victim [3] - 4:25, 18:12, 19:24 victim's [1] - 19:24 video [1] - 13:25 view [2] - 3:24, 23:10 viewpoint [1] - 18:1 violating [1] - 14:10 violation [1] - 5:15 volunteer [4] - 14:23, 15:1, 20:11, 20:14 vs [1] - 1:6</p> | <p>Zachary [1] - 13:24 zip [1] - 22:22</p> |
| S | T | W | W | Z |
| <p>showed [1] - 13:25 sign [4] - 13:1, 14:16, 15:8, 22:2 signature [1] - 14:16 signed [3] - 7:12, 15:12, 15:14 signing [1] - 15:5 single [1] - 17:9 six [1] - 21:3 slowly [1] - 15:20 Smith [22] - 3:4, 3:8, 3:14, 3:15, 5:1, 8:7, 9:7, 9:8, 9:10, 9:13, 9:21, 10:17, 11:10, 12:24, 13:8, 14:1, 15:4, 15:19, 17:14, 18:8, 21:13, 22:1</p> | <p>tape [1] - 3:20 telephone [1] - 3:13 terms [3] - 4:11, 17:11, 18:11 TESLA [1] - 1:12 Tesla [1] - 3:17 testified [1] - 4:17 testimony [1] - 1:9 testing [1] - 20:2 tests [1] - 20:5 THE [114] - 1:1, 2:5, 2:8, 2:10, 3:2, 3:7, 3:8, 3:14, 3:15, 3:17, 3:22, 3:23, 4:1, 4:2, 4:9, 4:10, 4:18, 5:1, 5:2, 5:3, 5:6, 5:7, 5:10, 5:11, 5:13, 5:14, 5:18, 5:19, 5:23, 6:6, 6:11, 7:4, 7:7, 8:3, 8:7, 9:2, 9:3, 9:9, 9:13, 9:16, 9:19, 9:22,</p> | <p>wait [3] - 13:11, 18:25 waive [1] - 16:7 waived [1] - 15:13 wants [1] - 6:10 warrant [1] - 4:7</p> | <p>wait [3] - 13:11, 18:25 waive [1] - 16:7 waived [1] - 15:13 wants [1] - 6:10 warrant [1] - 4:7</p> | <p>Zachary [1] - 13:24 zip [1] - 22:22</p> |