

[J-58-2006]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 57 MAP 2005
	:	
Appellant	:	Appeal from the Order of the Superior
	:	Court entered March 23, 2004 at 747
	:	MDA 2003, vacating and remanding for
v.	:	resentencing the Order of the Court of
	:	Common Pleas of Snyder County,
	:	Criminal Division, entered March 24,
WILLIAM THEODORE WALLS,	:	2003 at No. CR-0210-2002.
	:	
Appellee	:	846 A.2d 152 (Pa. Super. 2004).
	:	
	:	ARGUED: May 8, 2006

CONCURRING OPINION

MR. JUSTICE BAER

DECIDED: July 17, 2007

As I conclude that the Superior Court erred, I join the Majority. However, I write separately to express my concern regarding the Majority's decision to "decline to fashion any concrete rules as to the unreasonableness inquiry for a sentence that falls outside of applicable guidelines." Majority Slip Op. at 10. I fear that the decision will be interpreted to provide near limitless discretion for trial courts in the sentencing context. The Majority's decision may indeed negate the intended effect of the guidelines, which, as the Majority acknowledges, "were designed to bring greater rationality and consistency to sentences and to eliminate unwarranted disparity in sentencing." Majority Slip Op. at 6 n.3. While I fully agree that the sentencing guidelines are merely guidelines, rather than requirements, the General Assembly's enactments nonetheless require trial courts to provide reasons in support of any deviation from the guidelines, 42 Pa.C.S. § 9721(b), and require appellate

courts to vacate sentences deemed unreasonable, 42 Pa.C.S. § 9781. These provisions require an appellate court to determine whether the reasons given by a trial court provide a reasonable rationale for deviating from the guidelines. An appellate court should vacate a sentence where the trial court provides no basis, or an unreasonable basis, for the deviation.

Accordingly, I join in the decision of the Majority to remand the matter to the Superior Court for reexamination of the judgment of sentence.