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EXHIBIT

A

Attest: *Elizabeth Gish*
Chief Clerk
Supreme Court of Pennsylvania

EXHIBIT

B

Attest: Elizabeth Zisk
Chief Clerk
Supreme Court of Pennsylvania

EXHIBIT

C

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

COMMONWEALTH OF PENNSYLVANIA	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
v.	:	
	:	
	:	
ABRAHIM FATA	:	
	:	
Appellant	:	No. 563 EDA 2024

Appeal from the Judgment of Sentence Entered January 16, 2024
In the Court of Common Pleas of Lehigh County Criminal Division at
No(s): CP-39-CR-0004857-2017

BEFORE: LAZARUS, P.J., DUBOW, J., and McLAUGHLIN, J.

MEMORANDUM BY McLAUGHLIN, J.:

FILED APRIL 23, 2025

Abraham Fata appeals *pro se* from the judgment of sentence entered following the revocation of his probation. We affirm.

The trial court aptly summarized the facts and procedural history of this case as follows:

[Fata] was originally arrested on October 11, 2017 and charged with stalking and harassment. On June 5, 2018, [Fata] entered into a guilty plea on one count of stalking, 18 Pa.C.S.A. § 2709.1(a)(2), graded as a misdemeanor of the first degree. He was sentenced to not less than 8 nor more than 23 months in Lehigh County Prison, followed by three years of consecutive probation.

On August 26, 2020, [Fata] appeared before the undersigned for a parole violation stemming from [Fata's] alleged efforts to have contact with the victim. [Fata] conceded the allegations of the parole violation petition. His parole was revoked and he was remanded to Lehigh County Jail to serve the balance of his sentence with eligibility for reparole after serving one third of the balance. [Fata's] probation was revoked and he was resentenced to three

years of probation consecutive to serving the balance of his sentence. [Fata] was paroled on January 25, 2021.

On August 3, 2022, [Fata] was arrested in Pike County, Pennsylvania on charges of resisting arrest and disorderly conduct. [Fata] entered a guilty plea to resisting arrest on June 29, 2023 and received six months of probation in Pike County. This constituted a violation of his sentence in the within matter.

A **Gagnon II**⁽¹⁾ hearing was scheduled for December 13, 2023 before the undersigned. Defense counsel requested a continuance in order for [Fata] to secure a mitigation witness. The Court granted this continuance and conducted the matter on January 16, 2024.

At the **Gagnon II** hearing, Garrett Hall of the Lehigh County Office of Adult Probation recommended that [Fata's] probation be revoked and he be resentenced to not less than 11 nor more than 23 months in Lehigh County Prison. Officer Hall recommended that [Fata] be made eligible for parole after serving one third of the sentence, but emphasized that [Fata] should receive a mental health evaluation as part of his parole plan.

During the hearing, [Fata] agreed to execute a release for his mental health treatment records. The Court directed [Fata] to execute the release and sentenced him to not less than eleven nor more than twenty-three months in Lehigh County Prison. . . .

[Fata] filed a post-sentence Motion to Modify and Reduce Sentence on January 29, 2024, which the Court denied the same day. He subsequently filed a flurry of motions and petitions, including two separate notices of appeal which were docketed at 563 EDA 2024 and 493 EDA 2024. All of these were denied or dismissed as hybrid.

Counsel discontinued the appeal docketed at 493 EDA 2024 and instead elected to pursue only the appeal docketed at 563 EDA 2024.

¹ See **Gagnon v. Scarpelli**, 411 U.S. 778 (1973).

Rule 1925(a) Opinion, filed 4/11/24, at 2-3, 6.

On appeal, Fata filed an Application to Proceed *Pro Se*. We remanded the case to the trial court to hold a **Grazier** hearing.² The trial court determined that Fata knowingly, willingly, and intelligently waived his right to counsel, and he now appears before this Court *pro se*. *See* N.T., **Grazier** Hearing, 7/11/24, at 5-9.

Fata raises the following:

According to 42 Pa.C.S. § 2154.4 (1) the fact was I plead [sic] guilty to a new charge resisting arrest and violated probation, (2) the seriousness of the violation should somewhat correlate to the penalty imposed by the new charge, (3) and so should the rehabilitative needs of the defendant.

Also, according to the Opinion that was filed on April 11, 2024, and 42 Pa.C.S. § 9781(c)(1) there was legit reasoning for resentencing, a max of 23 months, but the minimum of 9 months because of Mr. Hall statement on page 4 of not taking my mental health seriously and possibly to stalk a minor again "is" erroneously, (c)(2) the circumstances of the resisting arrest was an accident, and not even a factor taken into consideration, and if it was, 9 months is clearly unreasonable, and/or (c)(3)

The trial court did not address these questions, and I am penalized for irrelevant and false issues.

Fata's Br. at 1-2.

Fata challenges the discretionary aspects of his sentence. There is no absolute right to appellate review of such a challenge. *See Commonwealth v. Perzel*, 291 A.3d 38, 46 (Pa.Super. 2023), *appeal denied*, 301 A.3d 426

² *Commonwealth v. Grazier*, 713 A.2d 81 (Pa. 1998).

(Pa. 2023). Rather, we must consider whether Fata: 1) filed a timely appeal; 2) preserved his claim at sentencing or in a post-sentence motion; 3) included a concise statement of the reasons relied upon for allowance of appeal pursuant to Pa.R.A.P. 2119(f) in his brief; and 4) raised a substantial question. **See Commonwealth v. Williams**, 198 A.3d 1181, 1186 (Pa.Super. 2018). All four prongs must be satisfied before we may address the merits of the claim. **See Commonwealth v. Austin**, 66 A.3d 798, 808 (Pa.Super. 2013).

Fata filed a timely appeal and preserved his claim in his post-sentence motion. However, he did not include a Rule 2119(f) statement in his brief. "If the Commonwealth objects to the appellant's failure to comply with Pa.R.A.P. 2119(f), the sentencing claim is waived for purposes of review." **Commonwealth v. Griffin**, 149 A.3d 349, 353 (Pa.Super. 2016). Here, the Commonwealth has objected and maintains that Fata's omission should result in his claim being unreviewable on appeal. **See Commonwealth's Br.** at 7. As such, Fata's sentencing claim is waived. We affirm the judgment of sentence.

Judgment of sentence affirmed.³

³ Fata made a "motion for a decision" in this case. **See Application for Relief**, filed 4/3/25. The motion is denied as moot.

EXHIBIT

D

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

vs.

ABRAHIM FATA,

Appellant

No. 4857 / 2017
563 EDA 2024

FILED
24 APR 11 PM 1:33
LEHIGH COUNTY, PA

1925(a) Opinion

Abraham Fata, Appellant, is appealing from the sentence he received following a Gagnon II hearing on January 16, 2024 after he conceded violating the terms of his probation. For the reasons set forth herein, Appellant's sentence was proper and should be affirmed.

Factual and Procedural History

Appellant was originally arrested on October 11, 2017 and charged with stalking and harassment. On June 5, 2018, Appellant entered into a guilty plea on one count of stalking, 18 Pa.C.S.A. § 2709.1(a)(2), graded as a misdemeanor of the first degree. He was sentenced to not less than 8 nor more than 23 months in Lehigh County Prison, followed by three years of consecutive probation.

On August 26, 2020, Appellant appeared before the undersigned for a parole violation stemming from Appellant's alleged efforts to have contact with the victim. Appellant conceded the allegations of the parole violation petition. His parole was revoked and he was remanded to Lehigh County Jail to serve the balance of his sentence with eligibility for reparole after serving one third of the balance. Appellant's probation was revoked and he was resentenced to three years of probation consecutive to serving the balance of his sentence. Appellant was paroled on January 25, 2021.

On August 3, 2022, Appellant was arrested in Pike County, Pennsylvania on charges of resisting arrest and disorderly conduct. Appellant entered a guilty plea to resisting arrest on June 29, 2023 and received six months of probation in Pike County. This constituted a violation of his sentence in the within matter.

A Gagnon II hearing was scheduled for December 13, 2023 before the undersigned. Defense counsel requested a continuance in order for Appellant to secure a mitigation witness. The Court granted the continuance and conducted the matter on January 16, 2024.

At the Gagnon II hearing, Garrett Hall of the Lehigh County Office of Adult Probation recommended that Appellant's probation be revoked and he be resentence to not less than 11 nor more than 23 months in Lehigh County Prison. Officer Hall recommended that Appellant be made eligible for parole after serving one third of the sentence, but emphasized that Appellant should receive a mental health evaluation as part of his parole plan.

During the hearing, Appellant agreed to execute a release for his mental health treatment records. The Court directed Appellant to execute the release and sentenced him to not less than eleven nor more than twenty-three months in Lehigh County Prison. After Appellant executed the post-sentence colloquy, but before he left the courtroom, the following exchange occurred:

MR. FATA: Your Honor, another thing, if I may. Originally, they were recommending me nine months jail time, and then we had that hearing, which right here you said to reschedule the bail modification and this. Nine months and now they want to aggravate this 7 to 11 months, when originally Kelsey said no jail time, that's why it was unsecure bail. I promise you, Your Honor, they recommended, Kelsey with her supervisor unsecure bail, do you know what I mean? If not then, Your Honor I kind of have to take that plea deal back from the resisting arrest because this what I was promised from both sides, no jail time. And now nine months, then a month later 11 months. Why do they keep -- why they -- what's going on here? What's going on here?

THE COURT: Mr. Hall, trying to wrap this up here. What was your recommendation for 11 and a half to 23 based on?

MR. FATA: First it was nine months. It was first nine months, you say.

MR. HALL: The fact that he is not taking his mental health treatment seriously, and he's also -- 11 to 23 months -- the charge was stalking, M1 of a minor as well. Which he also has had contact with the minor on a previous violation that we took in 2019. So if he's not addressing his mental health, I'm in fear that possibly could happen again.

MR. FATA: That's incorrect, stalking of a minor.

MR. SLETVOLD: Stop. I'm going to object to or I would ask the Court to consider, they're trying to compound a double punishment. If the contact with the minor was a violation before, to use it again, when it has not occurred again --

THE COURT: Right.

MR. SLETVOLD: --seems inappropriate.

MR. FATA: And there was no such thing as contacting a minor. What are they talking about?

MR. SLETVOLD: That's not part of this.

MR. FATA: All right. That's not part of this one.

THE COURT: All right. I --

MR. FATA: There's a lot of weird stuff going on.

THE COURT: -- I take your point, Mr. Fata[.] [I'm going to] make the minimum nine months, 9 to 23.

MR. FATA: All right. Now, hold on. The mental health I am taking it seriously, that the --

THE COURT: All right, Mr. Fata.

MR. SLETVOLD: He heard that. That's why he's not --

THE COURT: -- let's be clear. This is not a negotiation. You made your point. You thought you were originally being recommended for nine months minimum period of incarceration. I acceded that request on your part, even though Mr. Hall recommended more. You indicated that you will execute releases to provide the records to probation, so they can adequately develop a mental health treatment plan for you upon your parole. You received about three months credit towards this minimum, you have six months to go.

Based upon how well you conduct yourself while you are in the jail, you and/or Attorney Stetvold are free to petition me for early parole, based upon how you've done. But the sentence is now final. I gave you the nine months you sought -- that you believed you were originally recommended for, and you've --

MR. FATA: No.

THE COURT: -- been advised of your post-sentencing rights.

MR. FATA: I believe I was recommended -- this is for transcript purposes. I believe I was recommended no jail time from Kelsey, who was my probation officer at the resisting arrest --

THE COURT: Okay. And ultimately . . . it becomes my decision --

MR. FATA: Right.

THE COURT: -- what the sentence will be.

MR. FATA: Ultimately -- of course, Your Honor. Of course it's ultimately your decision. I was recommended no jail time from Kelsey, they aggravated it to nine months, and now aggravated to 11 months, and they're saying a lot of strange things. That I am not taking mental health seriously. Yes, I am. They're saying something with a minor, what are you talking about?

THE COURT: Not considering that, Mr. Fata. I'm only considering --

MR. FATA: Of course.

THE COURT: -- your new conviction.

MR. FATA: Yes, of course, and the resisting arrest, Your Honor[,] which I have evidence in with me that anybody in my situation would have freaked out. Like, ~~he~~ grabbed me, Your Honor. "Whoa, what are you doing?"

THE COURT: Okay.

MR. FATA: Everybody had -- the supervisor was there, unsecured bail to prove it. You understand? And then, not only that. So we get that done.

THE COURT: Mr. --

MR. FATA: Then --

THE COURT: Mr. Fata.

MR. FATA: -- so we're, Your Honor -- I am definitely going to put in the appeal of course.

THE COURT: I have considered the points you raised; my sentence has been entered. You are free to file a motion asking me to modify or change that sentence.

(N.T. Jan. 16, 2024 at 18-23.)

Appellant filed a post-sentence Motion to Modify and Reduce Sentence on January 29, 2024, which the Court denied the same day. He subsequently filed a flurry of motions and petitions, including two separate notices of appeal which were docketed at 563 EDA 2024 and 493 EDA 2024. All of these were denied or dismissed as hybrid.

Counsel discontinued the appeal docketed at 493 EDA 2024 and instead elected to pursue only the appeal docketed at 563 EDA 2024. Appellant filed a Concise Statement by and through counsel on March 5, 2024.

This Opinion follows.

Discussion

Appellant's sole issue on appeal is whether the sentence imposed on January 16, 2024 was excessively harsh and beyond that which is necessary to address the violation of supervision resulting from Appellant's new arrest and conviction.

Where a defendant appeals from a sentence imposed following a revocation of probation, the Superior Court may "review the validity of the revocation proceedings, the legality of the sentence imposed following revocation, and any challenge to the discretionary aspects of the sentence imposed." *Commonwealth v. Wright*, 116 A.3d 133, 136 (Pa. Super. 2015) (quoting *Commonwealth v. Cartrette*, 83 A.3d 1030, 1033 (Pa. Super. 2013) (*en banc*)).

While discretionary aspects of a sentence may be reviewed on an appeal from a revocation sentencing hearing, Pennsylvania courts have held that there is not an absolute right to appeal in that context. *Commonwealth v. McAfee*, 849 A.2d 270, 274 (Pa. Super. 2004). An appellant seeking to challenge discretionary aspects of the sentence imposed must demonstrate that there is "a substantial question as to the appropriateness of the sentence[.]" *Commonwealth v. Anderson*, 830 A.2d 1013, 1017 (Pa. Super. 2003) (citations omitted). Pursuant to Rule 2119(f) of the Pennsylvania Rules of Appellate Procedure, an appellant is required to advance "a colorable argument that the sentence violates a particular provision of the Sentencing Code or is contrary to the fundamental norms underlying the sentencing scheme." *Commonwealth v. Kimbrough*, 872 A.2d 1244, 1263 (Pa. Super. 2005) (*en banc*).

Whether something constitutes a substantial question is evaluated on a case-by-case basis. *Commonwealth v. Anderson*, 830 A.2d 1013, 1018 (Pa. Super. 2003) (citing *Commonwealth v. Losch*, 535 A.2d 115, 119 n.7 (Pa. Super. 1987)). A substantial question exists "only when the appellant advances a colorable argument that the sentencing judge's

actions were either: (1) inconsistent with a specific provision of the Sentencing Code; or (2) contrary to the fundamental norms which underlie the sentencing process." *Commonwealth v. Sierra*, 752 A.2d 910, 913 (Pa. Super. 2000) (quoting *Commonwealth v. Brown*, 741 A.2d 726, 735 (Pa. Super. 1999) (*en banc*), *appeal denied*, 567 Pa. 755, 790 A.2d 1013 (2001)).

A claim of excessiveness of sentence may raise a substantial question requiring the appellate court's review, even where the sentence is within the statutory limits. *Mouzon*, 812 A.2d at 626-28. Nonetheless, a sentencing court has not "abused its discretion unless the record discloses that the judgment exercised was manifestly unreasonable, or the result of partiality, prejudice, bias or ill will." *Commonwealth v. Smith*, 673 A.2d 893 (Pa. 1996) (quoting *Commonwealth v. Lane*, 424 A.2d 1325, 1328 (Pa. 1981)).

The Supreme Court of Pennsylvania explained that "[d]eference is accorded to the trial court's pronouncement because of the perception that the trial court is in the best position to determine the proper penalty for a particular offense based upon an evaluation of the individual circumstances before it." *Commonwealth v. Ward*, 568 A.2d 1242, 1243 (Pa. 1990). Thus, a sentence will not be disturbed unless it was manifestly excessive or outside the statutory limits. *Commonwealth v. Ellis*, 700 A.2d 948, 958 (Pa. Super. 1997). Sentencing judges are guided by the general principles of protecting the public, weighing the gravity of the offense in relation to its impact on the community and the life of the victim, and the defendant's rehabilitative needs. 42 Pa.C.S. §9721(b).

Sentencing judges are generally encouraged to adhere to the sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing. *Mouzon*, 812 A.2d at 620. Nonetheless, it is well-established that the guidelines are not mandatory, and that it is within the discretion of courts to sentence outside the guidelines. *Id.* at 621. There must be some

indication that the sentencing judge understood the suggested range. *Commonwealth v. Tirado*, 870 A.2d 362, 366 (Pa. Super. 2005). If the sentence imposed is outside the guidelines, the trial judge must make the reasons for the sentence a part of the record. *Id.*; 42 Pa.C.S. §9721(b).

It is clearly stated in the Sentencing Code not only that the court may revoke a defendant's probation if appropriate, but also that "[u]pon revocation the sentencing alternatives available to the court shall be the same as were *available at the time of initial sentencing*," 42 Pa.C.S. § 9771 (emphasis added). Likewise, this Court has explicitly stated that "upon revocation of probation, the court possesses the same sentencing alternatives that it had at the time of the initial sentencing." *Commonwealth v. Pierce*, 497 Pa. 437, 441 A.2d 1218, 1219 (1982). As it is well established that the sentencing alternatives available to a court at the time of initial sentencing are all of the alternatives statutorily available under the Sentencing Code, these authorities make clear that at any revocation of probation hearing, the court is similarly free to impose any sentence permitted under the Sentencing Code and is not restricted by the bounds of a negotiated plea agreement between a defendant and prosecutor.

Commonwealth v. Wallace, 870 A.2d 838 (Pa. 2005).

Appellant pled guilty to one count of Stalking, graded as a Misdemeanor of the First Degree, 18 Pa.C.S.A. § 2709.1(a)(2). The statutory maximum sentence for this offense was five years. *Id.* § 106(b)(6). It is not disputed that Appellant's sentence following his Gagnon II hearing was lawful.

In this case, Appellant's sentence was proper. Appellant was originally sentenced to not less than 8 nor more than 23 months in Lehigh County Prison, followed by three years of consecutive probation. Appellant violated the parole period of his sentence and appeared for a Gagnon II hearing on August 26, 2020. He was remanded to Lehigh County Jail to serve the balance of his sentence, with eligibility for parole after serving a third of the balance, followed by three years of probation at that time. This was the second violation in this case. The Lehigh County Office of Adult Probation expressed significant concerns about Appellant's mental

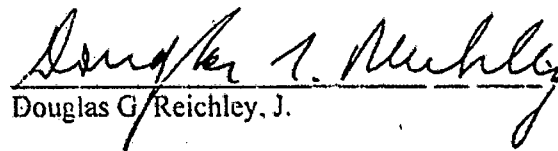
health treatment needs. The Court balanced those needs against the need for supervision of Appellant.

During the Gagnon II hearing, Appellant was originally sentenced to 11 to 23 months. However, the Court modified that to reduce the minimum to 9 months as reflected in the transcript after Appellant argued he was originally told the recommendation would be 9 months. This took into consideration Appellant's agreement to execute any necessary releases for mental health records and balanced that against his need for treatment. Based on these factors, Appellant has not identified a substantial question as to the appropriateness of his sentence. His judgment of sentence should be affirmed.

Conclusion

Because Appellant has not established a substantial question with respect to the appropriateness of his sentence, he has not satisfied the requisite criteria for review of his sentence on appeal. Consequently, the Court respectfully recommends that Appellant's judgment of sentence on January 16, 2024 following his Gagnon II hearing be **AFFIRMED**.

By the Court:


Douglas G. Reichley, J.

EXHIBIT

E

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL
Gagnon II
Intermediate Punishment/Probation Violation

Commonwealth of Pennsylvania : Case No. CR-4857-2017
: OTN: T 977869-4
vs. : Surcharge: Ct 1. Stalking 2709.1(a)(2) M1
:
Abraham Fata : Comm Atty: Debra Naish
: Defense Atty: Robert Sletvold
LCID: 0193200 : Clerk: BMZ
: OCS: B. Sabastro

ORDER

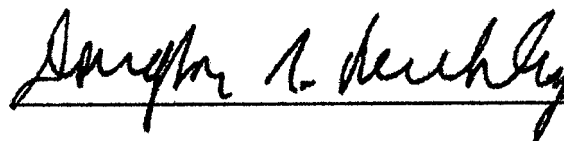
Now, January 16, 2024,

- ☒ Upon consideration of the Petition of the Commonwealth for probation violation, and after hearing (Gagnon II) held this date,
☐ A Waiver of a Gagnon II Hearing having been filed with the Court.
☒ Defendant has conceded the allegations of the Petition.
☒ Defendant has violated the conditions of probation as alleged.
☐ Upon motion of the Commonwealth, the petition for probation violation is dismissed.

IT IS ORDERED that

- ☒ Defendant's probation is revoked, and Defendant is re-sentenced to:
☒ pay the costs of prosecution,
☐ pay a fine of \$ _____, unless already paid,
☐ make restitution to _____, unless already paid,
☒ a period of incarceration of not less than 2 months nor more than 23 months
☒ in Lehigh County Jail, and credit be given you for all time spent in custody, as a result of these criminal charges for which sentence is being imposed.
☐ that you successfully complete the _____ program(s), an Intermediate Punishment, for a period of _____. Upon completion it is ordered that you undergo*
☐ Probation for a period of _____ under the supervision of the Lehigh County Adult Probation Department.
☐ This sentence shall run concurrently with the sentence imposed in Case No. _____.
☒ Stand committed until this sentence is complied with.
☐ Defendant is ☐ not RRRI eligible. ☐ RRRI eligible (_____ RRRI minimum).
☐ Defendant is granted immediate parole.
☐ A drug/alcohol evaluation is ordered and defendant may be early paroled only to an in-patient treatment program recommended by said evaluation.
☐ Defendant is eligible for transfer to the Community Corrections Center.
☐ Defendant ☐ is not eligible for re-entry. ☐ is eligible for re-entry for purposes of good/earned time.
☐ Defendant may be early paroled to an in-patient treatment facility as recommended by a drug/alcohol evaluation which is hereby ordered.
☒ Defendant is directed to report to the Lehigh County Probation Office within 72 hours of his release from jail.
☒ All conditions originally imposed shall remain in full force and effect, unless previously completed.
☒ Defendant shall execute releases to Lehigh County Adult Probation Department for access to his mental health evaluations.

BY THE COURT:



EXHIBIT

F

COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF	:	
PENNSYLVANIA	:	
	:	
V.	:	No: CR-4857-2017
ABRAHIM FATA,	:	
	:	
	:	
Defendant	:	

NOTES OF TESTIMONY

(GAGNON II HEARING)

BEFORE THE HONORABLE DOUGLAS G. REICHLEY

Commencing on January 16, 2024

2:00 p.m.

Courtroom No. 2C

Lehigh County Courthouse

Allentown, Pennsylvania

APPEARANCES:

DEBRA L. NAISH, ESQ.

-- On behalf of the Commonwealth

ROBERT E. SLEVTOLD, ESQ.

-- On behalf of the Defendant

* * *

BRENDA I. SABASTRO, OFFICIAL COURT MONITOR

1 THE COURT: We have Mr. Fata here in
2 court, represented by Attorney Slevtold. Mr.
3 Fata, please raise your right hand to be sworn
4 in.

5 (Whereupon, the WITNESSES were duly
6 sworn.)

7 THE COURT: All right. This matter
8 is *Commonwealth v Fata*, 4857 of 2017. Mr. Fata
9 is present in Court represented by Attorney
10 Slevtold from the Public Defender's Office.
11 Attorney Naish is here on behalf of the
12 Commonwealth along with Mr. Hall from Adult
13 Probation. This matter is before the Court for a
14 GAGNON II Hearing, which was continued from
15 December 13th. And what are we doing today,
16 Attorney Slevtold?

17 MR. SLEVTOLD: Your Honor, it will
18 be an admission to the new arrest from Pike
19 County where there was a conviction and that
20 violation only. I don't believe that Probation
21 Department is pursuing any allegations for
22 violations for the New Jersey case, which is
23 still pending and has been reduced from
24 aggravated assault to simple assault. And on
25 that basis, we would like to proceed.

1 THE COURT: Is that satisfactory for
2 the Commonwealth?

3 MS. NAISH: Yes, Your Honor.

4 THE COURT: All right. Mr. Hall, so
5 just give us a brief actual basis regarding the
6 new conviction from Pike County and your
7 recommendation.

8 MR. HALL: Your Honor, on October,
9 excuse me, August 3rd, 2022, the defendant
10 received charges from Pike County, M2 Resisting
11 Arrest/Other Law Enforcement, and Disorderly
12 Conduct. He was arrested by Blooming Grove PSP
13 on August 3rd, 2022. He has since pled guilty to
14 their charges on June 29, 2023, where he
15 received six months' probation within Pike
16 County. My --

17 THE COURT: Wait. What was the
18 charge he pled to?

19 MR. HALL: I'm sorry. Resisting
20 Arrest/Other Law Enforcement. They dismissed the
21 Disorderly Conduct.

22 THE COURT: So he got six months'
23 probation for resisting arrest?

24 MR. HALL: Yes, Your Honor.

25 THE COURT: All right. And based

1 upon that, what is your recommendation?

2 MR. HALL: Based upon that, along
3 with the series of the original charges, I am
4 recommending that the defendant's probation be
5 revoked and he be resentenced to 11 to 23 months
6 within the county. I'm also recommending that
7 the defendant receive a mental health evaluation
8 while inside before he be parole, as well.

9 THE COURT: So the sentence that is
10 potentially being violated with the one imposed
11 on August 26th of 2020, where he is placed on
12 three years of probation?

13 MR. HALL: Yes, Your Honor.

14 THE COURT: Excuse me. Parole is
15 revoked, he is eligible for reparole after
16 serving one third of the balance. And his
17 probation was revoked and that was -- it was
18 resentenced three-year probation consecutive to
19 the parole balance. So are we in the probation
20 part of the sentence?

21 MR. HALL: That is correct, Your
22 Honor.

23 THE COURT: And you mentioned 11 and
24 a half to 23?

25 MR. HALL: Yes, Your Honor.

1 THE COURT: What's happening to the
2 last year of probation? Has he already served
3 that? Or are you just satisfied to keeping it at
4 the county jail sentence?

5 MR. HALL: I will be satisfied with
6 a county jail sentence as long as he receives a
7 mental health evaluation, and he follows through
8 with the mental health treatment. He hasn't --
9 he's been in an involuntarily committed to two
10 separate mental health hospitals since you last
11 saw him in 2020. And I don't know -- I don't
12 believe he followed up with any sort of
13 aftercare with those involuntarily commitments.

14 THE COURT: And you want him to
15 receive a mental evaluation prior to release or
16 as part of his parole plan?

17 MR. HALL: I believe as part of his
18 parole plan. That will be appropriate.

19 THE COURT: Right. Because as I
20 understood it from Ms. Sandt, getting a
21 psychological evaluation in the jail is about
22 infrequent as Halley's Comet, so I don't know.

23 MS. SANDT: We often can get records
24 of the jail doctor. Is he -- was he -- had they
25 done the assessment? Or he's been 302 twice, we

1 can -- if he's willing to sign the releases, we
2 can get those records, and have his mental
3 health records from the facilities he was
4 committed to.

5 THE COURT: So do you want the
6 sentencing order to read that a mental health
7 record review to occur in composing his parole
8 plan, or do you want him to be -- or to go
9 through mental health evaluation as part of the
10 parole plan?

11 MS. SANDT: I don't know if we have
12 records, but if you order a psychiatric
13 evaluation to be done and we do have records, I
14 will generally email you and say Your Honor, we
15 have these records, we forego the evaluations
16 and then use those records for diagnostic
17 purposes for S.P.O.R.E. appropriateness.

18 MR. HALL: I know that we requested
19 that he sign off to receive -- so for us to
20 receive records from St. Clare's Boonton, which
21 is his last involuntarily admission, and he
22 refused to sign release of information.

23 MS. NAISH: When was that, what
24 year?

25 MR. HALL: That was recently.

1 MS. NAISH: Recently.

2 MR. HALL: Yes. He was in St.
3 Clare's Behavioral Health from Sept 28th, 2023 to
4 October 6th, 2023. And in December 13th, 2023 he
5 declined to sign a release for us to receive
6 those mental health records. I do have a
7 discharge summary but as to the extent of what
8 they actually diagnosed him with, I don't
9 believe we don't have that exact information.

10 MS. SANDT: Will he be willing to
11 undergo a new psychiatric evaluation, if we were
12 to schedule one for
13 him?

14 THE COURT: Attorney Slevtold, did
15 you review any of these options with Mr. Fata?

16 MR. SLEVOLD: May I have a moment,
17 Your Honor?

18 THE COURT: Sure.

19 (Whereupon, an off-the-record
20 discussion was held with Mr. Slevtold and Mr.
21 Fata.)

22 THE COURT: Attorney Slevtold, do
23 you think this will take more time?

24 MR. SLEVOLD: No.

25 THE COURT: I can bring Mr. Marcy

1 out.

2 MR. SLEVTOLD: No. Mr. Fata says he
3 would -- he has indicted he will sign the
4 releases. When he was asked to sign the releases
5 originally, he was under the impression it was
6 for the jail. He did not want to sign it for the
7 jail, but he would sign it for the Court to be
8 able to understand how to direct him towards a
9 treatment path.

10 MR. FATA: Not to -- not for
11 nothing, Your Honor. I was already on a --
12 somebody -- I don't know how; but I was already
13 on a mental health evaluation watch from the
14 jail anyways. They came through, and they were
15 watching me and everything. The mental health
16 evaluation that I was diagnosed with in New
17 Jersey was called psychosis none other
18 specified. I wrote a letter to you explaining
19 what's going on in my life. My son was sexually
20 abused and there was a conspiracy to cover it
21 up. I'm a victim of a hate crime and a lot of
22 bad things happened.

23 I was dealing with the U.S.
24 Department of Justice and the Attorney General's
25 Office. My probation officer Garrett Hall knows

1 about this, he seen the form of me emailing to
2 them. One thing led to another, and I finally
3 got to a point to get my son reevaluated of what
4 was going on with my son. And then that's what
5 caused this attack, this aggravated assault on
6 the police officer that got dropped down to
7 simple assault.

8 MR. SLEVTOLD: Let's so that the
9 record is clear, that's the New Jersey case not
10 that we're not --

11 MR. FATA: That's the New Jersey
12 case that we're --

13 MR. SLEVTOLD: That we're not
14 proceeding on.

15 MR. FATA: Right. Of course.

16 MR. SLEVTOLD: Just the Pike County.

17 MR. FATA: I'm just explaining. So
18 as far as the mental health evaluation, I suffer
19 from paranoia, fear, depression, and because of
20 all that they put delusion. Not delusion that
21 I'm seeing things or anything like that,
22 delusions that I suspect -- it's like a RICO, a
23 Racketeering Influence Corrupt Organization, and
24 I suspect everybody to be suspect. I'm just
25 having my guard way high up; way too high up is

1 what they're saying.

2 I spoke with a Lehigh County
3 detective; I spoke with a lot of people. My
4 probation officer originally Kelsy Krempasky, as
5 far as the resisting arrest, knew that people
6 were making fake police reports on me. It caused
7 the Pike County -- had a court date at Pike
8 County on August the 3rd. Kelsey never let me
9 know or informed me of a warrant for my arrest,
10 and we're in communication. I have emails and
11 everything.

12 The reason for this court date was
13 to bring evidence of this stuff. My attorney, by
14 the way, explained that wouldn't be necessary
15 because the facts are, you pled guilty to
16 resisting arrest that caused a violation, a
17 first probation violation. Now this resisting
18 arrest was not a malicious act, Your Honor. All
19 right. Just like, how not signing the paperwork
20 for my mental health evaluation, not like
21 something that is not, I was told something
22 different.

23 The resisting arrest, I was living
24 in fear because there was an attack on me and my
25 family. My children which I left -- I gave

1 copies of police reports of things that are
2 happening. And Garrett Hall knows of this stuff.
3 I'm not living life comfortable, there's
4 something going on. Well --

5 THE COURT: Well, Mr. Fata
6 respectfully.

7 MR. FATA: Yes.

8 THE COURT: Everything you're
9 telling me right now is preventing us from
10 moving to the point to have you in a position to
11 get released. The simple question whether you
12 would agree to sign a release?

13 MR. FATA: Yes.

14 THE COURT: To have your mental
15 health records reviewed by Adult Probation,
16 that's all I wanted to have you verify right
17 now.

18 MR. FATA: Yes.

19 THE COURT: That will save us the
20 time from having another psychological
21 evaluation performed as part of your parole
22 plan. And then Adult Probation can then put
23 together an appropriate mental health treatment
24 plan for you as part of your parole. Do you
25 understand that?

1 MR. FATA: I completely understand.
2 They did -- there was a follow up for it, was
3 supposed to go through counseling, just
4 counseling.

5 MR. SLEVTOLD: Let me -- let me
6 interrupt. When you say the follow up, you're
7 talking about the follow up to the
8 hospitalization?

9 MR. FATA: Yes. That -- by the way,
10 Your Honor, for what it's worth, when the
11 officer attacked me that I have recorded on my
12 phone. I wish you guys can see it but they said
13 it wasn't necessary. That's what led to that
14 second hospital visit because I went to my boss
15 and told him, look, nobody is listening to me,
16 maybe if you will call the authorities, and let
17 them know what's going on. He called the
18 authorities. The authorities recommended, why
19 don't we go ahead and see to make sure that
20 you're not mentally challenged or whatever. And
21 I'm not, these things really happened, its
22 recorded on my phone, and they -- that's what --
23 they said, look, we're just going to, we're
24 going to discharge you after a week, just follow
25 up with counseling.

1 My probation officer, I meant my
2 social worker, I'm sorry, in the jail told me
3 that this was not for probation to release, this
4 was for the jail so that you can have a new
5 probation or something like that. I said that
6 wouldn't be necessary, that really wouldn't be
7 necessary, but now that I know it was for Court,
8 I wish I knew earlier I would've done so. You
9 know what I mean?

10 THE COURT: Okay. Now, January 16th,
11 2024 upon consideration of the Petition of the
12 Commonwealth for a probation violation, and that
13 after a hearing held on this date, at which time
14 the defendant has conceded the allegations of
15 condition number 4 by incurring a new
16 conviction, defendant's probation is revoked.
17 Defendant is resentenced to a period of
18 incarceration not less than 11 and a half no
19 more than 23 months in Lehigh County Jail. All
20 conditions of defendant's prior probationary
21 sentence not inconsistent with this sentence
22 shall apply.

23 Defendant shall execute releases
24 to allow the Lehigh County Adult Probation
25 Office to access records from prior mental

1 health treatment, and the mental health
2 treatment shall be a part of the defendant's
3 parole plan. All conditions originally imposed
4 shall remain in full force and effect, unless
5 previously completed. Anything else you wish to
6 add, Mr. Hall?

7 MR. HALL: No, Your Honor.

8 THE COURT: Or Attorney Naish?

9 MR. FATA: Wait.

10 MS. NAISH: No, Your Honor.

11 THE COURT: Or Attorney Slevtold?

12 MR. FATA: Your Honor, I'm
13 understanding you're sentencing me to 11 months?

14 THE COURT: Eleven and a half to 23;
15 you are executing a mental health record
16 release, so we can comprise that into your
17 parole plan. And you have credit time of how
18 much right now, Mr. Hall?

19 MR. HALL: I believe he was detained
20 in October; I think it was.

21 THE COURT: Okay. So you have three
22 months towards that minimum period of
23 incarceration.

24 MR. FATA: Wait, You Honor.

25 THE COURT: Yes.

1 MR. FATA: I want to -- I was
2 explaining everything that this resisting arrest
3 was not malicious, anybody in my situation would
4 have caught this --

5 THE COURT: Right.

6 MR. FATA: -- this resisting
7 arrest.

8 THE COURT: I understand.

9 MR. FATA: Eleven months is kind of
10 excessive for everything that has happened. You
11 know what I mean? An officer I thought was going
12 to attack me. I had a legit reason to feel like
13 that, and then a year later an officer attacks
14 me. Eleven months, like, can I put an appeal for
15 that? Eleven months is way too excessive.

16 That's -- I had -- I put in -- I
17 wrote to you and asked for to put in a PCRA to
18 explain of the things that was going on, and you
19 granted me but it was dismissed because they
20 said that it was untimely. It had to be --
21 evidence has to put in within a year. Of new
22 evidence within a year is January 20th and
23 nobody wants to take the evidence, not the D.A.,
24 this, and my Public Defender you appointed me to
25 Alfred Stirba withdrawn immediately. I'm not

1 getting the justice. I'm being cheated out of my
2 freedom here. Like, could we talk about this 11
3 month? Eleven months is a --

4 (Whereupon, an off-the-record
5 discussion was held with Mr. Slevtold and Mr.
6 Fata.)

7 THE COURT: Mr. Hall, if this is a
8 probation violation, shouldn't there have been
9 resentencing guidelines prepared?

10 MR. HALL: This case is from 2017,
11 Your Honor.

12 THE COURT: That predates the --

13 MR. HALL: Yes.

14 THE COURT: -- requirement.

15 THE COURT: All right. Well --

16 MR. FATA: Oh. Last but not least.

17 THE COURT: Yes.

18 MR. FATA: My prior record score is
19 a four, and Pike County had complete
20 understanding with all the evidence that I
21 showed them that the attack on me and my family,
22 this is the truth, Your Honor, and they gave me
23 six months' probation only. And a year later,
24 sure enough, this is what happened in August. I
25 am not lying to you. I'm not a criminal. That

1 resisting arrest anybody in my position would
2 have freaked out and had a panic attack. That's
3 the truth, Your Honor.

4 THE COURT: Well, I just heard
5 Attorney Slevtold explaining to you the rights
6 you have from this day forward, which includes a
7 motion for reconsideration sentence that must be
8 filed in writing within ten days from today's
9 date, Mr. Fata. And that can be either filed by
10 you personally or by Attorney Slevtold at your
11 request.

12 You have the right to file an
13 appeal to the Superior Court of Pennsylvania
14 challenging the legality of the sentence I just
15 have imposed. The appeal must be in writing,
16 must be filed in the next 30 days. Again, can be
17 filed by you or Attorney Slevtold by your
18 request. Do you understand these post-sentencing
19 rights?

20 MR. FATA: Yes.

21 THE COURT: Okay. Did you execute
22 the post-sentencing colloquy, there?

23 MR. SLEVTOLD: Not yet, Your Honor.

24 (Whereupon, an off-the-record
25 discussion held was with Mr. Slevtold and Mr.

1 Fata.)

2 MR. FATA: Your Honor, another
3 thing, if I may. Originally, they were
4 recommending me nine months jail time, and then
5 we had that hearing, which right here you said
6 to reschedule the bail modification and this.
7 Nine months and now they want to aggravate this
8 to 11 months, when originally Kelsey said no
9 jail time, that's why it was unsecure bail. I
10 promise you, Your Honor, they recommended,
11 Kelsey with her supervisor unsecure bail, do you
12 know what I mean? If not then, Your Honor I kind
13 of have to take that plea deal back from the
14 resisting arrest because this what I was
15 promised from both sides, no jail time. And now
16 nine months, then a month later 11 months. Why
17 do they keep -- why they -- what's going on
18 here? What's going on here?

19 THE COURT: Mr. Hall, trying to wrap
20 this up here. What was your recommendation for
21 11 and a half to 23 based on?

22 MR. FATA: First it was nine months.
23 It was first nine months, you say.

24 MR. HALL: The fact that he is not
25 taking his mental health treatment seriously,

1 and he's also -- 11 to 23 months -- the charge
2 was stalking, M1 of a minor as well. Which he
3 also has had contact with the minor on a
4 previous violation that we took in 2019. So if
5 he's not addressing his mental health, I'm in
6 fear that possibly could happen again.

7 MR. FATA: That's incorrect,
8 stalking of a minor.

9 MR. SLEVTOLD: Stop. I am going to
10 object to or I would ask the Court to consider,
11 they're trying to compound a double punishment.
12 If the contact with the minor was a violation
13 before, to use it again, when it has not
14 occurred again --

15 THE COURT: Right.

16 MR. SLEVTOLD: -- seems
17 inappropriate.

18 MR. FATA: And there was no such
19 thing as contacting a minor. What are they
20 talking about?

21 MR. SLEVTOLD: That's not part of
22 this.

23 MR. FATA: All right. That's not
24 part of this one.

25 THE COURT: All right. I --

1 MR. FATA: There's a lot of weird
2 stuff going on.

3 THE COURT: -- I take your point,
4 Mr. Fata, and sorry to drive you crazy, Brandy,
5 make the minimum nine months, 9 to 23.

6 MR. FATA: All right. Now, hold on.
7 The mental health I am taking it seriously, that
8 the --

9 THE COURT: All right. Mr. Fata --

10 MR. SLEVTOLD: He heard that. That's
11 why he's not --

12 THE COURT: -- let's be clear. This
13 is not a negotiation. You made your point. You
14 thought you were originally being recommended
15 for nine months minimum period of incarceration.
16 I exceeded that request on your part, even
17 though Mr. Hall recommended more. You indicated
18 that you will execute releases to provide the
19 records to probation, so they can adequately
20 develop a mental health treatment plan for you
21 upon your parole. You received about three
22 months credit towards this minimum, you have six
23 months to go.

24 Based upon how well you conduct
25 yourself while you are in the jail, you and/or

1 Attorney Slevtold are free to petition me for
2 early parole, based upon how you've done. But
3 the sentence is now final. I gave you the nine
4 months you sought -- that you believed you were
5 originally recommended for, and you've --

6 MR. FATA: No.

7 THE COURT: -- been advised of your
8 post-sentencing rights.

9 MR. FATA: I believe I was
10 recommended -- this is for transcript purposes,
11 I believe I was recommended no jail time from
12 Kelsey, who was my probation officer at the
13 resisting arrest --

14 THE COURT: Okay. And ultimately
15 becomes it becomes my decision --

16 MR. FATA: Right.

17 THE COURT: -- what the sentence
18 will be.

19 MR. FATA: Ultimately -- of course,
20 Your Honor. Of course it's ultimately your
21 decision. I was recommended no jail time from
22 Kelsey, they aggravated it to nine months, and
23 now aggravated to 11 months, and they're saying
24 a lot of strange things. That I am not taking
25 mental health seriously. Yes, I am. They're

1 saying something with a minor, what are you
2 talking about?

3 THE COURT: Not considering that,
4 Mr. Fata. I'm only considering --

5 MR. FATA: Of course.

6 THE COURT: -- your new conviction.

7 MR. FATA: Yes, of course. And the
8 resisting arrest, Your Honor which I have
9 evidence in with me that anybody in my situation
10 would have freaked out. Like, he grabbed me,
11 Your Honor. "Whoa, what are you doing?"

12 THE COURT: Okay.

13 MR. FATA: Everybody had -- the
14 supervisor was there, unsecured bail to prove
15 it. You understand? And then, not only that. So
16 we got that done.

17 THE COURT: Mr. --

18 MR. FATA: Then --

19 THE COURT: Mr. Fata.

20 MR. FATA: -- so we're, Your Honor
21 -- I am definitely going to put in the appeal,
22 of course.

23 THE COURT: I have considered the
24 points you raised; my sentence has been entered.
25 You are free to file a motion asking me to

1 modify or change that sentence. You must do that
2 in writing within the next ten days. Do you
3 understand your post-sentencing rights?

4 MR. FATA: Do it, put in this appeal
5 to and --

6 THE COURT: Did you review the
7 three-page document advising you of your post-
8 sentencing rights and the standard conditions of
9 supervision?

10 MR. FATA: Not yet.

11 THE COURT: Please do so.

12 (Whereupon, an off-the-record
13 discussion was held with Mr. Slevtold and Mr.
14 Fata.)

15 MR. FATA: Your Honor. Your Honor.

16 THE COURT: Yes, Mr. Fata.

17 MR. FATA: You also put -- you also
18 said for bail modification and my --

19 THE COURT: I denied. Right. That
20 has been dismissed as moot, because I sentenced
21 you now.

22 MR. FATA: This bail modification
23 was for the one -- the case in New Jersey,
24 correct?

25 THE COURT: No.

1 (Whereupon, an off-the-record
2 discussion was held with Mr. Slevtold and Mr.
3 Fata.)

4 THE COURT: All right. Mr. Fata, we
5 addressed everything. You signed your post-
6 sentence -- did you sign your post-sentence
7 colloquy?

8 MR. SLEVTOLD: He did, Your Honor.

9 THE COURT: All right. And, Attorney
10 Slevtold --

11 MR. FATA: Your Honor, also last, I
12 put in a motion for time credit, that was due to
13 me.

14 THE COURT: I just saw this. I had
15 not seen this before. I will review it in due
16 course, Mr. Fata. Thank you. You're excused.

17 (Whereupon, the proceedings
18 concluded.)

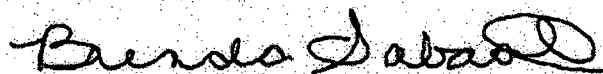
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CERTIFICATION

I hereby certify that this transcript of proceedings is true and correct and meets the format specifications established by the Supreme Court of Pennsylvania in Rule 4010.

April 2, 2024

DATE

A handwritten signature in cursive script, reading "Brenda Sabastro".

BRENDA I. SABASTRO, OCM

EXHIBIT

G

OTN#: T 977869-4
Defendant ID#: 0193200
OCS: C. Harris

COMMONWEALTH vs. Abraham Fata

CASE NO. CR-4857-2017

JUDGE: Thomas M. Caffrey

CLERK: swk

DISTRICT ATTY: Jay Jenkins

DEFT'S ATTY: Robert Sletvold

Now, July 11, 2024, upon pro se motion of the defendant for the discharge of Robert Sletvold, Esquire, as counsel of record, the Court, having found that the defendant is knowingly, intelligently and voluntarily waiving his right to counsel, hereby discharges Robert Sletvold, Esquire, from further representation in this matter.

By the Court:

19
Cathy

[illegible]

**IN THE SUPERIOR COURT OF PENNSYLVANIA
EASTERN DISTRICT**

COMMONWEALTH OF PENNSYLVANIA

No. 563 EDA 2024

v.

ABRAHIM FATA

Appellant

ORDER

IT IS HEREBY ORDERED:

THAT the application filed May 5, 2025, requesting reargument of the decision dated April 23, 2025, is **DENIED**.

PER CURIAM

EXHIBIT

H