

Sentencing issues term paper example

[Law](#), [Criminal Justice](#)



In the case involving Snookie P and the plaintiff, the defendant was caught coming out of the plaintiff's store, having stolen juice, cigarettes, some razors and a few other items. This was after a hurricane that had struck the locality, meaning that businesses had to remain closed.

Snookies argument was that her children had gone without food and water for some time and she had been left with no alternative than to break into the store and steal these items. Notably, the defendant has been convicted of burglary on three other occasions meaning that she is a habitual offender. This court has decided that from the evidence presented, Snooki has a case to answer. She will however not be subjected to the New Jersey three strikes sentence which carries a maximum of 20 years sentence for burglary of a commercial property (Seriousness category C)

This decision is arrived at, considering that the events after the hurricane have had significant impact on people's income, and probably accessibility of supplies. It also notes that Snooki's children are still young and may need her in their lives at their young age. Snooki's admission that she was prepared to pay for the items stolen is also taken into consideration, together with the fact that all stores had been closed following this hurricane. This justifies the decision not to sentence her under the three strikes law. The fact that she has been convicted of three times before only makes the situation worse.

In light of the above information, the court seeks to decide the appropriate sentence for Snooki, who was caught having stolen a number of items from an owners store in the pretext that the children needed the items for survival following the hurricane.

The court considers that the Hurricane had brought a lot of suffering to the residents of New Jersey, and due to the difficult conditions, most of the stores and businesses had remained closed. This means that supplies would be limited for the periods immediately after the hurricane.

It also notes that while the defendant insisted that the burglary was occasioned by the children's lack of food and water, items that are considered necessities for life, she went ahead and also stole cigarettes, packets of razors and a few other items that are indeed not considered basic items in the circumstances, unless she is able to prove to the court that her children were actually smokers and needed to smoke to save their lives after the hurricane! The same also applies to razors as well as filet mignon, her admission to fully pay for them notwithstanding.

The court also notes that there are quite a number of other residents of this area, and none of them had been involved in such activities, citing the reasons provided by the defendant. While this is not a significant part of this judgment, the court is also drawn to the attention of the fact that it's not the first, neither the second, but actually the fourth time the defendant is brought to judgment over burglary cases.

In mitigation, the court notes that the defendant has two young children who would need her attention as a parent for their wellbeing. It's also noted that the defendant was prepared to pay for the goods found in her possession, whether this is true or not, cannot be determined in the circumstances.

The court therefore, in consideration of the above information, and the accompanying submissions by the defendant hereby sentence the defendant to 10 years in prison for the offense prosecuted. This will deter anyone else

from committing this offense in the future.

In the matter before the court, it's noted that Charlie Sheen is a third time offender, of driving under influence, category F seriousness, who has pleaded guilty to the charges against him. His argument is that in the last 5 years in which he had two charges brought against him for the same offense, he has not had meaningful treatment and is now enrolled in a better program, which according to him is now working.

It's also noted by the court that in the defendants last appearance in court for the same offense, he was placed under a court monitored treatment program which he claims was not of much help as it was an outpatient program in which he could not concentrate as he was young then, 22 years of age.

Charlie has also argued that through the program, he has noted that alcohol is ruining his life and therefore he is on the path to recovery, the accident notwithstanding. The program is to run for the next 60 days after which Charlie is to be employed through the program, hopefully, having changed his ways. It's his plea that he intends to complete the program and also get a job through the same, a prospect that he is likely to miss in the impending sentence.

The evidence provided to the court points to the fact that being a third time offender, then the law has to take its course, sentiments that were also keenly observed by a civil rights group representative

In the face of the above issues, the court seeks to deliver a sentence that is within the law, and at the same time, consider the plight of the defendant, who is undergoing a program aimed at recovery. It must also be noted that

it's at the interest of the court to ensure that Charlie gets the best judgment in the circumstances. In consideration of the above, the court hereby releases Charlie to continue with the program on condition that he will report to the court after one month so that his progress can be monitored. After the end of the program, Charlie is also to report to the court for assessment. This judgment will also be conditioned on that should Charlie commit a similar offense in the following one year, then the judgment will cease to stand and he will be booked in for the mandatory two years. This is to give him the opportunity to complete the program, and reform while at the same time ensuring that he is still liable to conviction in the event that he does not meet the conditions outlined in this sentence.

After analyzing the aforementioned information together with evidence brought in court, it's the considered opinion of the court that Sharon should receive five years in prison for her offenses as opposed to the maximum of ten years that is carried by this offense. This is because she has been convicted of possession of heroin as well as six other petty charges of theft mainly to support her heroine addiction. This court considers all the above information and notes that these five years will help her to recover from the addiction. Her children will continue to put up with the foster care until she completes her sentence.

This is also informed by the fact that Sharon has previously abandoned her children to sell the drugs and her freedom may not be of significant assistance to the children. Additionally, in the circumstances, the fact that she has no home or a job, may mean that the children are better off with the foster parents than her as this would expose them to life threatening

environment.

a)

For the sake of this part of the essay, we shall consider the sentencing on case scenario two, in which Charlie is charged with driving under the influence for the third time now, in five years. It's also noted that Charlie has previously been charged for the same and placed under a court monitored treatment program that he says was not of much help. In this third offense, he insists that he is now in a better treatment program and will be able to reform after the end of it all.

The judgment issued is a pragmatic one. It recognizes the effort being employed by the defendant to get off this offense and also notes that he has now recognized that alcohol is ruining his life. This philosophy appreciates the need for a judgment that is not only legal and rational, but also beneficial to helpful to the defendant. It faces the reality that driving under the influence is a common offense, and also notes that Charlie is working hard to get off alcohol, something that is commendable.

Pragmatism also appreciates that if Charlie is sentenced to the maximum 2 years, he will miss the opportunity to complete the program, and also to get the promised job, which would have been for the better good of all.

Releasing him from prison after two years will not have solved the problem, whereas letting him get on with the program may be the solution to his offenses.

An idealistic judge would be quick to stick to the letter and spirit of the law, and convict him to two years in prison, which is a legal sentence. But it does not help solve the problem for the good of all.

b)

Pragmatism and idealism are two conflicting and different schools of thought and philosophies that seek to explain how an individual approaches decision making. In a pragmatic decision making process, the judge's decision is guided by the greater good for all, as opposed to sticking to the legal parlances as per the constitution and the law. The judge notes that while Charlie has been an offender before, and is legally entitled to the maximum sentence, he has made outstanding effort towards recovery path.

He has acknowledged that the current program that he is undergoing is likely to result to significant behavior change as well as employment and normal life thereafter. Sentencing him to the mandatory two years in prison will not only mean that his program is stopped, but will also mean that the opportunity to get a job and live a normal life is thwarted.

The judge, therefore weighs these two options and settles for the former, and rightfully so. An idealist decision making process is constrained by the legal facts presented. This means that regardless of the prevailing circumstances or mitigating factors, the statutory sentence stands.

It must be noted that an offense is done not in a vacuum, but in a prevailing environment and circumstances. The offender and their conduct after the offense need to be regarded in decision making. Faithfully following the law may not at all circumstances lead to the greater good of all, one of the key pillars of pragmatism

c)

Under the pragmatism theory, my sentence is as it is on a foregoing discussion. As highlighted, my sentence takes cognizance of the fact that the

defendant is already undergoing a program that is likely to lead to total behavior change which is not only good for the defendant but also for the country at large, since a working individual contributes to the nations development as opposed to one in prison who is a net consumer.

Under the idealist theory, my sentence would be the legal maximum two years for the offense since the defendant is a third time offender. This will disregard the effort being expended by the defendant in order to reform and contribute to the nation's development, and only consider the legal sentence attracted by this offense.