

There is a lot of disgust with the sentence Tiffney Hamlyn received for Manslaughter, OUI, and leaving the scene of an accident. Maine Law provides the process for a court to follow in imposing a sentence and as attorneys we take that law into consideration when fashioning plea agreements. The sentencing law can be found at Title 17-A, section 1252-C of the Maine Statutes. The law requires the sentencing court to determine (i) a basic term of imprisonment, (ii) the maximum period of imprisonment, and (iii) the suspended portion of the maximum period of imprisonment. The court first determines a basic term of imprisonment by considering the particular nature and seriousness of the offense as committed by the offender. 17-A M.R.S.A § 1252-C(1). In determining the basic term of imprisonment, "the court should compare the defendant's conduct on a scale of seriousness against all the possible means of committing the crime and determine where on a scale it ranks." *State v. Roberts*, 641 A.2d 177 (Me. 1994) (citing *State v. Michaud*, 590 A.2d 538, 542 (Me. 1991); *State v. Hallowell*, 577 A.2d 778, 781 (Me. 1990)). The Court, in determining this basic period of incarceration, is to consider "the basic period of incarceration imposed for similar conduct of other offenders convicted of offenses within the same classification." *State v. Berube*, 1997 ME 165, ¶3, \_\_\_ A.2d \_\_\_, (citing *State v. Bolduc*, 638 A.2d 725, 727 (Me 1994)). "The court shall next determine the maximum period of imprisonment to be imposed by considering all other relevant sentencing factors, both aggravating and mitigating, appropriate to that case and offender. These sentencing factors, include but are not limited to, the character of the offender and the offender's criminal history, the effect of the offense on the victim and the protection of the public interest." The Court is to "consider those factors peculiar to [the] offender" to determine the appropriate degree of mitigation and aggravation. *State v. Hewey*, 622 A.2d 1151, 1154 (Me. 1993). In *State v. Robert*, 641 A.2d 177 (Me. 1994), the Law Court found mitigating factors to include a lack of prior criminal conduct, true remorse, and factors indicating a favorable prospect of rehabilitation or a lesser likelihood of re-offense. A prior criminal record, lack of remorse, and other circumstances indicating a high probability of re-offense are aggravating factors a court should consider when sentencing. See *Id.*, *Hewey*, at 1154-55. The Law Court also indicated that lower courts should consider "the impact on the defendant and the people concerned about him . . .," in determining the maximum period of imprisonment. *State v. Constantine*, 588 A.2d 294 (Me 1991). The final analysis of the sentencing process "is determine what portion, if any, of the maximum period of imprisonment should be suspended and, if a suspension order is to be entered, . . . the appropriate period of probation to accompany that suspension." *State v. Black*, 2007 ME 19, ¶ 11 (cites omitted). An offender "may be sentenced to a sentencing alternative that include a period of probation if the person is in need of the supervision, guidance, assistance or direction that probation can provide." 17-A M.R.S.A. § 1201(2) (2006). The court in determine what portion of the sentence should be suspended must balance, "among other interest, the need to acknowledge the seriousness of [the defendant's] criminal behavior against the goal of rehabilitat[ion] ... so that [the defendant] is able to return to a crime-free life." *Black* at ¶ 12.

The scale used in determining the basic period of incarceration depends on the class of the crime. A Class A crime is typically 0 to 30 years, a Class B crime is typically 0 to 10 years and a Class C crime is typically 0 to 5 years. I state typically because some Class A, B and C crimes do carry mandatory minimum sentences. For example Aggravated Trafficking in Schedule W Drugs is a Class A crime and carries a mandatory minimum sentence of 4 years. The sentencing range is 4 to 30 years.

I hope this helps you understand how attorneys and the courts arrive at a sentence in Maine. Remember, we as taxpayers have to pay to incarcerate individuals. Additionally, incarceration without corrections returns criminal to society worse off then when they went to prison.