

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION**

**UNITED STATES OF AMERICA** :

v. :

**ELENA RUTH SASSOWER,** :

**Defendant.** :

**Criminal No.: M-4113-03**

**Judge Holeman**

**Closed Case**

**ORDER**

This matter comes before the Court pursuant to Defendant's letter to the Court dated June 3, 2005, which will be treated as Defendant/Appellant's *Pro Se* Motion for Correction or Modification of the Record on Appeal under D.C. Court of Appeals Rule 10(e). For the following reasons, Defendant/Appellant's Motion is denied.

The trial court record of this case reflects that on April 20, 2004, following a jury trial, Defendant was convicted of one count of Disorderly and Disruptive Conduct on United States Capitol Grounds, in violation of 10 D.C. Code Section 503.16 (b)(4). At the sentencing hearing held on June 28, 2004, Defendant was offered probation, the conditions of which included, *inter alia*, that Defendant stay away from and inside of any of the buildings that collectively comprise the United States Capitol Complex. During the reading of the Court's proposed conditions of probation, a description of the boundaries of the stay-away was recited by the Court and recorded by the court electronic audio system. Defendant was informed that "maps of the area are provided herewith," meaning that maps depicting the proscribed area would be attached to the form Judgment and Commitment/Probation Order containing the terms and conditions of probation.

Following announcement of the proposed probationary terms and conditions, Defendant expressly and unequivocally rejected imposition of probation. It was only after Defendant's explicit rejection of probation that the Court imposed and executed a sentence of six (6) months incarceration and a five hundred dollar (\$500.00) fine. Costs in the amount of two hundred fifty dollars (\$250.00) were assessed under the Victims of Violent Crime Compensation Act. The standard Superior Court form Judgment and Commitment/Probation Order was prepared and filed of record, with corresponding jacket (court file folder) entries made, by the Courtroom Clerk. There is no specification of probation contained in these required submissions to the trial court record. Defendant now seeks production, by the Court, of the maps referred to by the Court as depicting the proposed probationary stay-away area.

It is unquestioned that Defendant rejected the probationary conditions proposed by the Court. Consequently, the proposed probationary conditions were neither ordered, adopted, filed, nor otherwise made a part of the trial court record. The Superior Court of the District of Columbia is required to keep a simultaneous verbatim recording of all proceedings, which are made available to "any person who has made suitable arrangements[.]" Super. Ct. Crim. R. 36-I(a) and (b). Defendant has obtained a transcript of the sentencing hearing held on June 28, 2004, a page from which was attached to Defendant's letter dated June 3, 2005.

While the proposed probationary conditions are included in the verbatim *recording* of the sentencing hearing, now transcribed, none of these proposed conditions, including the stay away-area and explanatory maps, became part of the official trial court *record* for appellate review. Simply put, the proposed conditions of probation and the

related maps, which Defendant now requests, were never reduced to an order, form or otherwise, or attachment thereto, since Defendant expressly rejected the proposed probation. The requested documents are not part of the trial court record.

For the preceding reasons, Defendant's request for production of the subject maps can only be viewed as a request for correction or modification of the record under D.C. Court of Appeals Rule 10(e). This rule states, in pertinent part, that "[i]f any difference arises about whether the record truly discloses what occurred in the Superior Court, the difference must be submitted to and settled by that court and the record conformed accordingly." Defendant makes no apparent or implied challenge to the trial court record based upon error. Further, Defendant has failed to set forth with specificity any basis for correction of the trial court record.

Similarly, Defendant has failed to demonstrate that the trial court record should be modified to include, presumably, the proposed probationary terms that were expressly and unequivocally rejected by Defendant at the sentencing hearing held on June 28, 2004. Absent this showing, Defendant has no basis for modification of the trial record to include the requested maps, the sole purpose of which was to clarify the proposed stay-away condition of probation.

In conclusion, the trial court record contains no order imposing probation for Defendant. As such, the trial court record does not contain the documents Defendant currently seeks. Defendant has also failed to set forth facts to support correction or modification of the trial court record or other relief provided under Rule 10(e).

**WHEREFORE**, upon consideration of Defendant's Motion and the record of this case, Defendant having failed to establish grounds warranting correction or modification of the trial court record, it is this 17<sup>th</sup> day of June, 2005 hereby

**ORDERED**, that the instant request for relief, treated as a Motion for Correction or Modification of the Record, is **DENIED**.

  
BRIAN F. HOLEMAN  
JUDGE

**SIGNED IN CHAMBERS**

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