

# Pennsylvania cancer patient sentenced to 10 months in prison for shoplifting \$109.63 in groceries

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Ashley Menser, 36, was sentenced January 22 by Lebanon County, Pennsylvania Judge Samuel A. Kline to serve 10 months to seven years in prison. Menser pleaded guilty to shoplifting \$109.63 worth of merchandise from a local grocery store in 2018.

In a news release, Lebanon County District Attorney Pier Hess Graf stated that Menser pled “open,” meaning that the court decides the sentence it deems appropriate. The judge has made her eligible for parole as early as seven and a quarter months under a special program for nonviolent offenders.

Menser and her family were hoping that the fact that she was being treated for cancer would persuade the judge to either delay or defer her sentencing. They were wrong. Menser was diagnosed with cancer in 2011 and her family says she has advanced ovarian cancer as well as cervical cancer.

Her family and attorney asked that she be allowed to serve her sentence under house arrest and be allowed to undergo treatment from her doctors at Hershey Medical Center’s Cancer Institute. Menser had an oncology appointment at Hershey later on the morning of January 22, the same day as her sentencing, where she was expected to be scheduled for a hysterectomy to remove the cancer that has already spread to her lymph nodes.

However, Judge Kline showed no mercy and denied their requests.

Stephanie Bashore, Menser’s mother, said she had met with a doctor who said that Menser would likely die within a month if she did not receive treatment. “She has no choice, it’s life or death,” she told reporters. “The doctors sat there and told us this.” On news of his daughter’s sentencing, Steve Via, her father, told the *PA Post*, “I sat there and sat there and

was like, ‘No, this can’t happen.’ She must have this operation or she’s going to die.”

Menser has a history of drug abuse and post-traumatic stress disorder (PTSD), for which she is receiving psychiatric medication. Her PTSD is likely connected to the loss of one of her children. The 2018 shoplifting charge resulted in her ninth shoplifting conviction since 2007. Due to the prior convictions, this latest charge was a felony, carrying a maximum possible prison sentence of 10 years.

Her mother said she had been trying to turn her life around and had gotten a job at a fast food restaurant. Her wages there, however, would not have relieved her of any financial distress she might have been suffering in her life.

There are sentencing guidelines in Pennsylvania that allow judges discretion in sentencing for defendants suffering from mental illness. The law is unclear on sentencing for those suffering from terminal illnesses. In Menser’s case, the line between mental illness and physical illness is blurred, as she suffered from both cancer and PTSD. According to her lawyer, Scot Feeman, the medication she was taking for her PTSD caused her to act out irrationally.

Since being sentenced, Menser has been held in the Lebanon County Correctional Facility. Although court dockets show Judge Kline did urge she be moved to a state correctional facility “promptly” so her medical needs could be addressed, the latest reports received by the family indicated she was still in the county facility.

At the Lebanon County facility, while inmates can request to see a doctor, a doctor is only available two days per week. The facility contracts a private company, PrimeCare, to attend to inmates’ medical

need, and is unlikely to have highly skilled oncologists on staff.

Bureau of Justice statistics in 2016 estimated that 22 percent of US inmate deaths were cancer related, while it is not clear how many of these cases were pre-existing. Cancer is the leading cause of death for state prisoners in Pennsylvania.

The laws of modern American society take a heavy toll on the poor and most vulnerable. Those suffering from cancer and other serious diseases have to fight to overcome their medical conditions as they struggle to pay for the treatment necessary to do so.

A 2018 study from the *American Journal of Medicine* found that of the 9,527,522 diagnoses of cancer studied between 2000 and 2012, 42.2 percent had lost their entire life's assets by the second year.

It is under these conditions that the Trump administration recently unveiled a change in the Medicaid program, the health program for the poor jointly administered by the federal government and the states, that would allow states to cap Medicaid spending for poor adults without children, an estimated 13.1 million of whom have gained coverage under the Affordable Care Act since 2014.

The proposal would also allow states to limit prescription choices to just one drug per class for most conditions. Access to drugs would be restricted for a range of serious illnesses, like the cancer debilitating people like Menser.

Additionally, a new Trump rule going into effect in April would allow states to impose work requirements for receiving food stamps (Supplemental Nutrition Assistance Program, or SNAP) on many of those designated as "Able Bodied Adults Without Dependents." By the government's own estimates, this restriction would cause 700,000 adults to lose their benefits. In reality, these "able-bodied" individuals are often unable to work due to a disability that cannot be documented or are the caregiver for another adult.



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