

**QUESTION 4 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II**

Debbie Defendant is charged with one count of assault with intent to do great bodily harm less than murder (GBH), a 10-year felony. At the arraignment on the information, the prosecutor informed Debbie and her counsel there would be no reduced plea offers extended in this case. Consequently, Debbie's counsel asked the trial judge whether she would offer any insight into how Debbie might be sentenced should she plead guilty to the GBH charge. The trial judge stated on the record that based on her limited knowledge of the case, she would consider sentencing Debbie to six months in the county jail should Debbie plead guilty to the GBH charge.

The prosecutor objected and indicated that Debbie's criminal history required that she be sentenced to the maximum term of incarceration permitted under law. Debbie stated on the record that she was pleased with the court's sentencing proposal and given the court's assessment, she would agree to plead guilty to the GBH charge. The trial court accepted the plea, referred Debbie to the probation department for preparation of a presentence investigation report (PSIR) and set a sentencing date. The prosecutor, disgruntled over the trial court's sentencing proposal, immediately filed a motion to set aside the plea and assign the case to another judge due to improper participation by the court in the sentence negotiation process. The prosecutor's motion was set to be heard on the sentencing date.

On the date set for sentencing, the trial judge, relying on information contained in the PSIR, refused to sentence Debbie to six months in the county jail. The judge stated she would, however, impose a sentence of 24 to 120 months imprisonment to be served in the state prison, such sentence falling within the low end of the applicable sentencing guideline range. The prosecutor continued to demand imposition of a tougher sentence and asked the court to rule on his motion.

**How should the court rule on the prosecutor's motion? Explain your answer.**

**Describe and discuss Debbie's remedies, if any, to the trial court's refusal to sentence her to six months in the county jail.**

**\*\*\*\*\*THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II\*\*\*\*\***