

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : No. 98-11,637

VS :

STACY MAE BRADY :

OPINION IN SUPPORT OF ORDER
IN COMPLIANCE WITH RULE 1925(A)
OF THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court's Order dated November 29, 1999 wherein the Defendant was sentenced to an aggregate sentence of probation of 18 months. This sentence was imposed after the Defendant was found guilty by a jury of delivery of marijuana and criminal conspiracy to deliver marijuana. Defendant's counsel filed the Appeal to the Superior Court on December 29, 1999. On January 12, 2000, this Court directed that Defendant file a concise statement of matters complained of on appeal in accordance with Pa.R.A.P. 1925(b). Three months have now passed, and the Court has not received a statement of matters complained of on appeal.

The Pennsylvania Rule of Appellate Procedure 1925(b) provides that the Court may enter an Order directing the appellant to file a concise statement of matters complained of on appeal. The Rule further provides that a failure to comply with such direction may be considered by the appellate court as a waiver of all objections to the order, ruling or other matter complained of. Pursuant to this Rule, in order to preserve their claims for appellate review, appellants must comply whenever the trial court orders them to file a Statement of Matters Complained of on Appeal pursuant to Rule 1925. Any issues not raised in a 1925(b) statement will be deemed waived. Commonwealth v. Lord, 719 A.2d 306, (Pa. 1998). As the Court's Order directing that a statement of

matters complained of on appeal has not been complied with, this Court would find that the issues should be deemed waived.

Additionally, even if it were found that the Defendant's failure to file a statement does not act as a waiver in this case, the Court chooses not to bind the Superior Court to address an issue that the Defendant may or may not wish to raise, See Commonwealth v. Perez, 444 Pa. Super. 570, 664 A.2d 582 (1995).

Dated: April 17, 2000

By The Court,

Nancy L. Butts, Judge

cc: James Protasio, Esquire
Kenneth Osokow, Esquire
Honorable Nancy L. Butts
Law Clerk
Gary Weber, Esquire
Judges