

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : 99-10,182

VS :

BRIAN WILLIAMS :

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 9, 1999 wherein the Defendant was sentenced to undergo incarceration for a minimum of five (5) years and a maximum of ten (10) years. This sentence was imposed after the Defendant was found guilty by a jury of aggravated assault and related charges. Defendant's counsel filed his Appeal to the Superior Court on December 9, 1999. On December 13, 1999, 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: March 24, 1999

By The Court,

Nancy L. Butts, Judge

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