

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA**

<b>COMMONWEALTH OF PENNSYLVANIA</b>	<b>:</b>	<b>No. 99-10,872</b>
	<b>:</b>	
<b>vs.</b>	<b>:</b>	<b>CRIMINAL DIVISION</b>
	<b>:</b>	
<b>TINA WYNNE,</b>	<b>:</b>	
<b>Defendant</b>	<b>:</b>	<b>1925(a) Opinion</b>

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

This opinion is written in support of this Court's Judgment of Sentence dated February 3, 2000. The relevant facts are as follows. On May 28, 1999, the defendant forcefully struck another female over the head with a forty (40) ounce malt liquor bottle three (3) times and cut her throat with the broken bottle while stealing this individual's purse. On December 3, 1999, the defendant pled guilty to one count of robbery, a felony of the first degree.

The Court sentenced the defendant on February 3, 2000. At the sentencing hearing, the Commonwealth requested that the Court utilize the deadly weapon enhancement due to the manner in which the defendant attacked the victim with the bottle. The Court granted the Commonwealth's request and sentenced the defendant to incarceration in a state correctional institution for a minimum of two and one-half (2½) years in accordance with the sentencing guidelines for using a deadly weapon in the

commission of the offense.<sup>1</sup>

On March 3, 2000, the defendant filed a notice of appeal. On March 6, 2000, the Court ordered the defendant to file a Concise Statement of Matters Complained of on Appeal in accordance with Rule 1925(b) of the Rules of Appellate Procedure. The Court has not received any response to this Order.

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*

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<sup>1</sup>The standard guideline range with the deadly weapon enhancement was thirty (30) to forty-two (42) months. Without the enhancement, the standard range would have been twelve (12) to twenty-four (24) months and the aggravated range would have been up to thirty-six (36) months.

Commonwealth v. Perez, 444 Pa. Super. 570, 664 A.2d 582 (1995).

DATE: \_\_\_\_\_

By The Court,

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Kenneth D. Brown, J.

cc: Daniel Holmes, Esquire (ADA)  
Public Defender  
Superior Court (original & 1)  
Work file  
Gary Weber, Esquire (Lycoming Reporter)