

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : 99-10,902

VS :

GEORGE COX MACON, JR. :

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

Defendant appeals from the sentence imposed by this Court on September 14, 2000, after he pled guilty to conspiracy and possession with the intent to deliver a controlled substance. For the offense of possession with the intent to deliver a controlled substance, the Defendant was sentenced to undergo incarceration in a state correctional institution for eighteen (18) to thirty-six (36) months. For the conspiracy offense, the Defendant was sentenced to be placed under the supervision of the Pennsylvania Board of Probation and Parole for a period of two years, consecutive to the sentence for possession with the intent to deliver.

In an effort to determine the issues the Defendant wished to raise on appeal, on October 20, 2000, this Court directed that the Defendant's counsel prepare a concise statement of matters complained of on appeal in accordance with Pa.R.A.P. 1925. To date, the Court has not received a statement of matters complained of.

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, 553 Pa 415, 719 A.2d 306, (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: December 8, 2000

By The Court,

Nancy L. Butts, Judge

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