

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH : No. CR-388-2005  
vs. :  
 : CRIMINAL DIVISION  
 :  
 :  
 :  
TROY C. BREISH, :  
Defendant : 1925(a) Opinion

**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 July 20, 2005 and docketed July 27, 2005.

Appellant was arrested and charged with driving under the influence of alcohol (DUI), failure to stop at a stop sign and failure to drive in a single lane. A jury found Appellant guilty of DUI and the court found Appellant guilty of the summary violations. On July 20, 2005, the court sentenced Appellant to pay fines and costs and to undergo incarceration in a state correctional institution for a minimum of one year and a maximum of five years. Appellant filed a notice of appeal on August 12, 2005. On August 16, 2005, the court ordered Appellant to file a concise statement of matters complained of on appeal within fourteen days. To date, no such statement has been filed.

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 Appellant'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 Appellant may or may not wish to raise, *See* Commonwealth v. Perez, 444 Pa. Super. 570, 664 A.2d 582 (1995).

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

By The Court,

\_\_\_\_\_  
Kenneth D. Brown, P. J.

cc: Henry Mitchell, Esquire (ADA)  
James Cleland, Esquire (APD)  
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Superior Court (original & 1)