

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

CRYSTAL LAKE CAMPS,	:	
Plaintiff	:	
	:	
v.	:	No. 03-01,904
	:	CIVIL ACTION
DOROTHY S. ALFORD, GREGORY F.	:	
WELTEROTH and THOMAS W.	:	
CORBETT, JR., PA Attorney General,	:	
Defendants	:	

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

Defendant Gregory F. Welteroth appeals this Court's March 23, 2006 Order which denied the Plaintiff's Motion for Reconsideration, or Appellate Certification of the Order of July 27, 2005¹ Pursuant to 42 Pa.C.S.A. § 702(b) and Pa.R.A.P. No. 1311, or Determination of Finality Pursuant to Pa. R.A.P. No. 341(c) and clarified this Court's Order of February 15, 2006. Defendant Welteroth's Notice of Appeal and Statement of Matters Complained of on Appeal were timely filed on March 28, 2006 and April 10, 2006 respectively.

Recent Procedural History

At the September 2005 Pretrial Conference in this matter, held before the Honorable Dudley N. Anderson, all parties stipulated to submit the Plaintiff's claim for declaratory judgment, as contained in Court I of the Complaint, to the Court sitting without a jury, and to defer all remaining claims until the next trial term. *See*, Civil Pretrial Conference Order, September 13, 2005. On November 18, 2005, following the non-jury trial on the Plaintiff's request for declaratory judgment, Judge Anderson issued an Opinion and Verdict granting said request.

¹ The Plaintiff uses this date in its Motion, however, there was no Order entered that date; the Order the Plaintiff speaks to was issued on February 15, 2006.

On November 28, 2005, Defendant Welteroth filed a timely² Post-trial Motion for Reconsideration of Judge Anderson's November 18, 2005 Opinion and Verdict, which Judge Anderson summarily denied on December 8, 2005. Then, on December 9, 2005, the Plaintiff filed a Praecipe to Enter, which the Prothonotary promptly entered that same day. On February 15, 2006, this Court granted Defendant Welteroth's January 26, 2006, Motion to Strike the Entry of Judgment, and, following a March 21, 2006 hearing on Defendant Welteroth's Motion to Certify Interlocutory Order for Appeal and the Plaintiff's Motion for Reconsideration, this Court entered a clarification Order on March 23, 2006. Defendant Welteroth's instant appeal ensued.

Discussion

Pursuant to section 7532 of the Declaratory Judgment Act, the entry of a declaratory order, by the trial court, ". . . shall have the force and effect of a final judgment or decree.;" however, in order to render such an order final for appeal purposes, post-trial motions must be filed and decided. *Motorists Mut. Ins. Co. v. Pinkerton*, 574 Pa. 333, 830 A.2d 958 (2003). After said post-trial motions are filed and decided, under Pa.R.A.P. No. 903, parties have thirty days (30) within which to file an appeal.

Instantly, Defendant Welteroth, after filing and receiving a decision on his post-trial motion, failed to file a timely appeal, but instead filed a Motion to Strike Judgment on January 26, 2006; because Judge Anderson's November 18, 2005 Opinion and Verdict is final and did not necessitate a praecipe for entry of judgment under the declaratory Judgment Act, this Court granted Defendant Welteroth's Motion to Strike the Entry of Judgment as untimely³. In other words, this Court did not strike Judge Anderson's November 18, 2005 Opinion and Verdict

² Pa.R.C.P. No. 227.1 requires all post-trial motions be filed within ten days (10) of entry of verdict.

³ The Entry of Judgment was also superfluous. See, *Jones v. Prudential Prop. & Casualty Ins. Co.*, 2004 Pa. Super. 284, 856 A.2d 838 (2004).

but instead struck the Prothonotary's December 9, 2006 entry of said verdict because, by virtue of the Declaratory Judgment Act, the verdict did not need to be entered in order to be considered final. Once Defendant Welteroth's Motion for Reconsideration was denied, he had thirty (30) days (on or before January 7, 2006) within which to perfect an appeal to the Pennsylvania Superior Court. Since no appeal was taken, although unnecessary, the Plaintiffs could file their Praecipe to Enter Judgment no earlier than January 8, 2006.

By the Court,

Nancy L. Butts, Judge

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