

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :  
 :  
 vs. : NO. 1182-05  
 :  
 EUGENE MOON, :  
 :  
 Defendant : 1925(a) OPINION

Date: June 2, 2006

**OPINION IN SUPPORT OF THE ORDER OF MARCH 21, 2006 IN COMPLIANCE  
WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

Defendant Eugene Moon has appealed the sentence this court imposed on March 21, 2006. On March 21, 2006, a jury found Defendant guilty of Count 1 Possessing or Transporting Liquefied Ammonia Gas (intent to manufacture a controlled substance), 35 P.S. § 780-113.1(a)(2); Count 2 Possessing or Transporting Liquefied Ammonia Gas (any purpose other than legitimate agricultural or industrial use), 35 P.S. § 780-113.1(a)(1)(i); Count 3 Possessing or Transporting Liquefied Ammonia Gas (container not approved by Department of Agriculture or Department of Transportation or both), 35 P.S. § 780-113.1(a)(1)(ii); Count 4 Theft by Unlawful Taking or Disposition, 18 Pa.C.S.A. § 3921(a); Count 5 Receiving Stolen Property, 18 Pa.C.S.A. § 3925(a). This court sentenced Defendant to a minimum term of fifteen months and a maximum term of five years incarceration at a State Correctional Institute and to pay a fine in the amount of \$1,000 under Count 1. Defendant was also ordered to pay a fine in the amount of \$500 under Count 3. The court further sentenced Defendant to twelve months probation under Count 4. The court ordered that the sentences under Counts 1 and 4

were to be served consecutively. The court found that Count 2 merged with Count 1 and that Count 5 merged with Count 4 for purposes of sentencing.

On April 20, 2006, Defendant filed a notice of appeal. On May 2, 2006, this court issued an order in compliance with Pennsylvania Rule of Appellate Procedure 1925(b) directing Defendant to file a concise statement of matters complained of on appeal within fourteen days. That order was filed on May 3, 2006. The docket indicates that the Lycoming County Prothonotary's Office provided notice of that order on May 3, 2006. Defendant's statement of matters was due on May 17, 2006. As of the date of this opinion, Defendant has failed to file his statement of matters.

The court is unaware of any basis for the appeal because Defendant has not filed a statement of matters. Therefore, the court cannot issue a meaningful opinion in support of the sentence order in compliance with Pennsylvania Rule of Appellate Procedure 1925(a). Further, the court recommends that the Superior Court dismiss the appeal. In order to preserve his issues for appellate review, an appellant must comply with a court's order directing him to file a concise statement of matters complained of on appeal and any issue not raised in the statement of matters is deemed waived on appeal. *Commonwealth v. Castillo*; 888 A.2d 775, 780 (Pa. 2005); *Commonwealth v. Hess*, 810 A.2d 1249, 1252 (Pa. 2002); *Commonwealth v. Lord*, 719 A.2d 306, 309 (Pa. 1998). With the exception of a challenge to the legality of his sentence, Defendant's failure to file the statement of matters likely waives the issues he wishes to appeal.

Accordingly, Defendant's appeal should be denied and the March 21, 2006 order affirmed.

BY THE COURT,

William S. Kieser, Judge

cc: James Protasio, Esquire  
DA  
Judges  
Christian Kalas, Esquire  
Gary L. Weber, Esquire (Lycoming Reporter)