

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 04-10,919  
 :  
 vs. :  
 :  
 IAN M. FILLMAN, :  
 Defendant :

OPINION IN SUPPORT OF ORDER OF AUGUST 8, 2005,  
IN COMPLIANCE WITH RULE 1925(A) OF  
THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court’s Order of August 8, 2005, which sentenced him on one count of aggravated assault to twelve to sixty months incarceration, and on one count of burglary to a concurrent term of eighteen to sixty months incarceration, following his plea of “no contest” to the first count<sup>1</sup> and “guilty” to the second. This is actually Defendant’s second appeal in this matter, the first having resulted in a finding by the Superior Court that all issues had been waived for failure to serve a copy of the 1925(b) Statement on the trial judge. Commonwealth v. Fillman, No. 1614 MDA 2005 (filed July 12, 2006). Defendant’s Post Conviction Relief Act petition was then granted upon stipulation of counsel, and by Order dated September 11, 2006, Defendant was given permission to appeal *nunc pro tunc*. Since Defendant now raises the identical issues raised in the first appeal, the Court will simply rely on its Opinion dated November 15, 2005, for purposes of this appeal as well.

Dated: October 2, 2006

Respectfully Submitted,

Dudley N. Anderson, Judge

cc: DA  
Eric Linhardt, Esq.  
Gary L. Weber, Esq.  
Hon. Dudley Anderson

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1 Initially, Defendant pled guilty to a count of aggravated assault with a deadly weapon, indicating that he possessed and fired the gun involved. When he recanted this testimony, indicating instead that someone else in the group possessed and fired the gun, the Court allowed him to withdraw his plea to this count. He then entered a plea of “no contest” to aggravated assault, without the deadly weapon component.