

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. CR – 298 - 2006
:
vs. :
:
:
SHERYL L. JOHNSON, :
Defendant :

OPINION IN SUPPORT OF ORDER OF JUNE 13, 2006,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Defendant appeals this Court’s Order of June 13, 2006, which sentenced her on one count of theft to forty-two months probation supervision and directed her to pay restitution of \$35,440.00. In her Concise Statement of Matters Complained of on Appeal, Defendant alleges an abuse of discretion with respect to the amount of restitution.

Unfortunately, the Court finds it is unable to address Defendant’s claim. While Defendant filed a Statement of Matters Complained of on Appeal, on July 31, 2006, she did not serve a copy of such on this Court as required by Pa.R.A.P. Rule 1925. While it is a simple enough matter for the Court to obtain a copy from the court file, this Court has been chastised by the Superior Court for taking this course and overlooking a defendant’s dereliction to comply with the rule.¹ Accordingly, Defendant’s issues will be considered waived and, unless otherwise directed by the Superior Court, the matter will be addressed by this Court no further.

Dated: August 7, 2006

Respectfully Submitted,

Dudley N. Anderson, Judge

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

¹ On July 12, 2006, the Superior Court filed a memorandum opinion in the matter of Commonwealth v. Fillman, No. 1614 MDA 2005, Lycoming County No. CR – 919 – 2004, finding all issues raised by the defendant therein to have been waived for failure to serve a copy of the Statement of Reasons Complained of on Appeal on the trial judge, and in the process, noting “Our Supreme Court has made it clear that the lower courts are not to overlook any dereliction to comply with Rule 1925, nor are we to apply equitable principles in order to reach the merits of an appeal where there is a failure to comply with the Rule”, citing Commonwealth v. Schofield, 888 A.2d 771 (Pa. 2005), and referencing Schaefer v. Aames Capital Corp., 805 A.2d 534 (Pa. Super. 2002).