

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA**

NINA BALL,	:	CONTEMPT OF PFA
Plaintiff	:	
	:	
v.	:	NO. 07-20,773
	:	
STEPHEN LYONS,	:	
Defendant	:	

**OPINION**

**Issued Pursuant to Pa. R.A.P. 1925(a)**

The defendant has appealed this court’s order of January 7, 2008, finding him in indirect criminal contempt of the protection from abuse order of June 25, 2007. This matter arose from a letter the defendant wrote to Elisa Gardner on December 16, 2007. Ms. Gardner was acquainted with the plaintiff’s boyfriend, Todd Withers, who frequented a bar where Ms. Gardner worked.

The issue raised in the defendant’s Concise Statement Pursuant to Pa.R.P. 1925(b) states the court erred in interpreting the phrase, “Perhaps, you got in Nina’s ear . . .” to be an attempt to communicate with the plaintiff through Ms. Gardner. The court’s decision rested not only on this passage, but on several other parts of the letter, as well as the testimony presented at the hearing.

Much of the letter contains reference to the pending charge against the defendant of raping Ms. Ball, and of his upcoming rape trial.<sup>1</sup> Referring to Ms. Ball, the defendant writes, “And I got text messages that she sent to Jeremy & April to prove she’s lying from the very beginning. At trial, it’ll come out. She’s crazy.” The defendant also writes, “My new lawyer that I hired is pushing to have Nina arrested for perjury if she wants to go through w/it.” Later in the letter the defendant writes the following two passages:

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<sup>1</sup> The protection from abuse order arose from the same incident underlying the rape charges.

It is possible to plead the case down. My lawyer is talking to the District Attorney about resolution of the case and by using the text message evidence, written statements, her erratic behavior tendencies, and her psychiatric problems, we are trying to plead the case down to a summary harassment involving a domestic dispute.

Perhaps, you got in Nina's ear . . . Someone needs to talk some sense into her. She should take the position of not wanting to go through a trial and advise the District Attorney that she would like to see resolution of the case by pleading it down to a summary harassment stating both me and her were at fault.

Moreover, the letter also states, "Since you're friends with Todd, you can let him read this. We'll see what happens." The obvious inference from this passage is that the defendant wanted Todd to see the letter, so that Todd would show it to the plaintiff. That is precisely what happened.

Although the defendant denied any intention to communicate with Ms. Ball through this letter, the court did not find his testimony to be credible, nor did his explanation make sense. Ms. Gardner was not a close friend of the defendant, and she testified that she did not even read the entire letter because she had no idea what it was about. N.T. p. 10. She did, however, come into frequent contact with Todd, and predictably gave him the letter the next time she saw him. Obviously, the defendant was not writing to Ms. Gardner as a friend or confidant. He merely intended to use Ms. Gardner as an intermediary to communicate with Ms. Ball.

When considering the letter as a whole, it is clear the defendant wanted to inform Ms. Ball that he will be bringing up embarrassing information about her at trial, and was attempting to intimidate her into contacting the District Attorney's office to request the charges against him be reduced to harassment. This is clearly a violation of the Protection from Abuse order.

BY THE COURT,

Date: \_\_\_\_\_  
Richard A. Gray, J.

cc: District Attorney  
Andrea Pulizzi, Esq.  
Gary Weber, Esq.