

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

v.

**JEREMY BANEY,
Defendant**

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**No.: MD-74-2009
CRIMINAL DIVISION
APPEAL**

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

The Defendant appeals this Court's Order dated April 8, 2009, denying Defendant's Motion for Expungement. The Court notes a Notice of Appeal was timely filed on April 28, 2009, and that the Defendant's Concise Statement of Matters Complained of on Appeal was then filed on June 1, 2009.

By way of Opinion, this Court will rely on its previous Order filed on April 8, 2009, in which the Court dismissed the Defendant's Motion for Expungement for failure to comply with the requirements of the Expungement statute at 18 Pa.C.S. §9122. The Defendant alleges that the Court erred in denying his Expungement Motion because he did not follow the instructions for filing the Petition. In actuality, the Defendant's Motion was denied for failure to meet the statutory requirements for expungement. The relevant portion of the Expungement statute at 18 Pa.C.S. §9122 requires:

(3)(i) An individual who is the subject of the information petitions the court for the expungement of a summary offense and has been free of arrest or prosecution for five years following the conviction for that offense.

Based upon a review of the Defendant's criminal record, the Defendant was not free of arrest or prosecution for five years following the convictions for which he wished to have expunged.

Therefore, the Defendant did not meet the requirements of the statute. Accordingly, the Court suggests that dismissal of Defendant's Expungement Motion should be affirmed.

By the Court,

Nancy L. Butts, Judge

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