

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

<b>COMMONWEALTH</b>	:	
	:	
<b>v.</b>	:	<b>Nos. 1280-2007</b>
	:	<b>CRIMINAL DIVISION</b>
<b>STEPHEN LYONS,</b>	:	<b>APPEAL</b>
<b>Defendant</b>	:	

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

The Defendant appeals the Order of the Honorable Nancy L. Butts dated January 26, 2010, which concluded that the trial court lacked jurisdiction to address the Defendant’s Motion to Suspend Collection of Court Costs.

***Background***

The Defendant is an inmate currently incarcerated at the State Correctional Institution at Albion where he is serving a 31 to 72 month sentence in the above captioned matter. The Defendant contends that he is not able to pay the costs of the proceedings. The Defendant filed a Motion with this Court to Stop Act 84 Deductions of Fines, Court Costs and Restitution.

***Discussion***

42 Pa. C. S. A. 761(a)(1) provides that the Commonwealth Court has original jurisdiction over all civil actions or proceedings “against the Commonwealth government, including any officer thereof, acting his official capacity...” The defendant in Commonwealth v. Danysh 833 A.2d 151, 152 (Pa. Super. 2003) filed a request with the Court of Common Pleas (trial court) to

stop deduction of income from his inmate account to pay costs and fines. See 42 Pa.C.S.A. § 9728(b)(5) (commonly referred to as "Act 84"). The Danysh Court determined that the Commonwealth Court, not the Court of Common Pleas, had jurisdiction in this case. Id. The Danysh Court reasoned that although the Defendant's petition did not demand any specific relief, "the obvious point was to make DOC stop taking money out of his inmate account." Id. 153. The Danysh Court concluded that the defendant's request for the Department of Corrections to stop taking money out of his account qualified as a civil action. Id. Furthermore, the Danysh Court stated that the defendant's request was against the Department of Corrections, which is a government actor. Id. The Danysh Court concluded that as the defendant's petition involved a civil action against a government agency, the Commonwealth Court had jurisdiction over the defendant's Act 84 Petition, not the Court of Common Pleas. Id. at 154.

Like the defendant in Danysh, the Defendant in this case requested that the Court of Common Pleas suspend collection of costs from his inmate account. Case law makes it clear that this Court, as it is the trial court, does not have jurisdiction over the Defendant's Act 84 Petition. Therefore, the Defendant fails to raise a substantial question that this Court erred in its Order of January 26, 2010.

***Conclusion***

As the Defendant's argument is without merit, it is respectfully suggested that this Court's Order of January 26, 2010 be affirmed.

By the Court,

Dated: \_\_\_\_\_

Nancy L. Butts, President Judge

xc: DA  
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Hon. Nancy L. Butts  
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