

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

JEFFREY D. HILL, : NO. 13 – 00,329
Plaintiff :
 : CIVIL ACTION - LAW
vs. :
 :
GROUNDWATER & ENVIRONMENTAL :
SERVICES, :
Defendant :

OPINION IN SUPPORT OF ORDER OF MARCH 26, 2013,
IN COMPLIANCE WITH RULE 1925(A) OF
THE RULES OF APPELLATE PROCEDURE

Plaintiff has appealed this court’s Order of March 26, 2013, which denied his Motion for Default Judgment. Ordinarily, this court would simply note that such an order is not a final order (and therefore Plaintiff has no right to appeal, *See* Pa.R.A.P. 341), without addressing the merits of the issue raised on appeal. In this case, however, in order to avoid providing Plaintiff with fodder for further epithets,¹ the court will explain its reasoning in denying the motion.

On February 12, 2013, Plaintiff filed a document entitled “Employment Discrimination Complaint” and a Motion for Leave to Proceed *In Forma Pauperis*.² On March 13, 2013, Plaintiff filed the Motion for Default Judgment at issue herein, seeking a default judgment “for the defendant’s refusal to defend and answer” his Complaint. Both the Complaint and the Motion for Default Judgment indicated that the Complaint had been sent to the Defendant by certified mail, rather than having been personally served by the Sheriff,³ however. The court therefore determined that a default judgment would be inappropriate as proper service had not been effectuated.⁴ *See Hill v. Thorne*, 635 A.2d 186 (Pa. Super. 1993)(the service

1 In a document entitled “Judicial Notice for Default Judgment”, filed March 28, 2013, Plaintiff refers to the court as a “Kangaroo court” and in the Notice of Appeal, filed April 2, 2013, Plaintiff “give[s] notice of [his] intent to appeal “judge” Anderson’s 3-26-13 hatchet job”.

2 By Order dated February 25, 2013, the motion for leave to proceed *in forma pauperis* was granted.

3 Pa.R.C.P. 400(a) provides that, except in circumstances not present herein, “original process shall be served within the Commonwealth only by the sheriff.”

4 Not to mention that the motion contained no certification that a ten-day

requirements of Pa.R.C.P. 400 must be strictly followed).

Interestingly, Defendant apparently overlooked Plaintiff's mis-step and filed an Answer and New Matter on March 20, 2013. At the time of the entry of the court's Order on March 26, 2013, this document did not yet appear on the docket and the court was thus unaware of its having been filed. Such filing does not, however, relieve Plaintiff from the service requirements of Rule 400 and somehow entitle him to a default judgment. And, contrary to Plaintiff's contention, this court's ruling, aka "hatchet job", is *not* "essentially what Gates pulled in Hill vs. Thorne, 635 A2d 186-191 (PaSuper, 1993) at 188 & what Raup pulled in Hill vs PaDER & Maxwell, 679 A2d 773-774 (Pa, 1996) – criminal oppression & obstruction".⁵ Ignoring Plaintiff's description of those rulings, the court will simply point out that in the former, Judge Gates dismissed Plaintiff's Complaint and in the latter, Judge Raup transferred the Complaint to Commonwealth Court. Here, this court has neither dismissed nor transferred Plaintiff's Complaint, but simply ruled that he is not entitled to a default judgment. The matter remains before this court and as soon as the instant appeal is completed, the court will enter a Scheduling Order which sets discovery deadlines and places the case on the trial list.

Dated: April 26, 2013

Respectfully submitted,

Dudley N. Anderson, Judge

cc: Jeffrey D. Hill, 306 South Washington Street, Muncy, PA 17756
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Gary Weber, Esq. (Lycoming Reporter)
Hon. Dudley N. Anderson

notice had been sent, See Pa.R.C.P. 237.1(2)(ii), and the Complaint contained no "Notice to Defend". See Pa.R.C.P. 1018.1(a).
5 Quoting from Plaintiff's Notice of Appeal, filed April 2, 2013.