

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA
ORPHANS' COURT DIVISION**

IN RE:	:	NO. 6501
	:	
JH and	:	
SM,	:	
minor children,	:	

Dated: February 27, 2017

**OPINION IN SUPPORT OF THE ORDER OF DECEMBER 20, 2016, IN COMPLIANCE
WITH RULE 1925(a)(2) OF THE RULES OF APPELLATE PROCEDURE**

GH ("Appellant") has appealed this Court's Order dated December 20, 2016, and docketed on the same date. The Order terminated Appellant's parental rights to the above-named children. Pursuant to the Pennsylvania Rules of Appellate Procedure, the notice of appeal shall be filed within 30 days after the entry of the order from which the appeal is taken. **Pa.R.A.P. 903(a)**. Therefore, any notice of appeal by a party should have been filed by January 20, 2017. Appellant's Notice of Appeal was not filed in the office of the Lycoming County Prothonotary until January 31, 2017, which is beyond the deadline for filing a timely appeal.

An appellate court for good cause shown may upon application enlarge the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time, but the court *may not enlarge the time for filing a notice of appeal*, a petition for allowance of appeal, a petition for permission to appeal, or a petition for review." **Pa.R.A.P. 105(b)** (emphasis added).

As Appellant's Notice of Appeal was not filed until 11 days after the 30 day window for filing a timely appeal, this Court respectfully requests that the appeal be dismissed as untimely.

Additionally, this appeal has been designated a Children's Fast Track appeal, due to the fact that Appellant is appealing the termination of his parental rights. **See Pa.R.A.P. 102.** Per the Rules of Appellate Procedure, Appellant was required to file and serve his Concise Statement of Errors Complained of on Appeal simultaneously with the Notice of Appeal. **See Pa.R.A.P. 905(a)(2) and 1925(a)(2).** Appellant did not file his Concise Statement simultaneously with the filing of his Notice of Appeal, and, therefore, this Court would be unable to address the Appellant's issues had he filed a timely appeal.

In the event the Superior Court decides to waive the timeliness requirement for filing the appeal and review the case on its merits, this Court's Opinion and Order of December 20, 2016, is a comprehensive accounting of the evidence presented, findings of facts, and analysis. This Court would rely on that Opinion and Order for this appeal. The findings of the Court are supported by the testimony and exhibits from the hearing held on November 17, 2016. In the event, however, Appellant should file a Concise Statement of Errors Complained of on Appeal and the Superior Court decides to review the case on its merits, this Court respectfully reserves the right to amend this Opinion pursuant to Pa.R.A.P. 1925(a).

By the Court,

Joy Reynolds McCoy, Judge