

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

**COMMONWEALTH OF PENNSYLVANIA** : **CP-41-CR-1870-2017**  
:   
v. :   
:   
**JAMES NOTTINGHAM,** :   
**Appellant** : **1925(a) Opinion**

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

This Opinion is written in support of the Court’s Order and sentence imposed in case CR-1870-2017 on June 26, 2018. Following the imposition of that Order and sentence, Appellant filed a timely Post-Sentence Motion on July 2, 2018. This Court then received Appellant’s Notice of Appeal on July 10, 2018 and Concise Matters Complained of on Appeal on August 9, 2018 unprovoked by this Court. Prior on July 18, 2018, this Court scheduled a hearing for Appellant’s Post-Trial Motion on September 11, 2018, and this Court has yet to make a final decision on Appellant’s Post-Trial Motion.

Appellant has made an improper and unripe appeal. Appeals to the Pennsylvania Superior Court when a defendant has filed a post-sentence motion are to occur:

- (a) within 30 days of the entry of the order deciding the motion;
- (b) within 30 days of the entry of the order denying the motion by operation of law in cases in which the judge fails to decide the motion; or
- (c) within 30 days of the entry of the order memorializing the withdrawal in cases in which the defendant withdraws the motion.

Pa. R. Crim. P. 720(a)(2).

The rules are that clear that “[n]o direct appeal may be taken by a defendant while his or her post-sentence motion is pending.” *Id.* cmt Timing. Therefore, Appellant has appealed issues this Court has yet to decide in his Post-Trial Motions, which are undoubtabley the basis of his

appeal. The appellate court should therefore dismiss his appeal as unripe and permit this Court to decide his Post-Trial Motions at which point Appellant still reserves his right to re-appeal or take the Court's judgment.

DATE: September 6, 2018

BY THE COURT,

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Nancy L. Butts, P.J.

cc: DA  
Dance Drier, Esq.