

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

TC,		: No. 20-20,515
	Plaintiff	: 1234 MDA 2020
		:
vs.		: CIVIL ACTION - LAW
		:
JC,		:
	Defendant	: CUSTODY

**DATE: October 5, 2020**

**OPINION IN SUPPORT OF THE ORDER DOCKETED ON SEPTEMBER 2, 2020, IN  
COMPLIANCE WITH RULE 1925(a) OF THE RULES OF APPELLATE PROCEDURE**

TC (“Appellant Mother”) has appealed this Court’s Interim Custody Order entered on September 2, 2020, following a hearing held on August 31, 2020, in which the parties were before the Court on two separate Petitions for Contempt filed to the parties’ Lycoming County divorce docket, #20-20,277. As noted in this Court’s Order of September 2, 2020, a Divorce Complaint was filed by Appellant Mother on May 5, 2020, which did not contain a count for custody. On May 27, 2020, the parties reached an agreement which was made an Order of Court in the Divorce docket whereby the parties would share legal and physical custody of the child on a week-to-week basis. On June 3, 2020, JC (“Appellee Father”) filed an Answer to the Divorce Complaint and included an additional Count for Custody. On July 22, 2020, Mother filed a separate Custody action to the above-referenced docket number, which was scheduled for a custody conference on September 28, 2020. Following the August 31, 2020, hearing, this Court found Appellant Mother in contempt of the of the custody order of May 27, 2020, filed to docket #20-20,277, and entered the Interim Custody Order to the parties’ custody docket, #20-20,515,

for convenience and clarity as the parties moved through the normal channels of the custody process starting with the custody conference on September 28, 2020.

Appellant Mother filed a timely Notice of Appeal on September 22, 2020. However, because the Order that is the subject of the appeal is a custody order, this matter is a Children's Fast Track Appeal pursuant to Pa.R.A.P. 102. Appellant Mother failed to include in the Notice of Appeal a statement advising the Appellate Court that the Appeal is a Children's Fast Track Appeal pursuant to Rule of Appellate Procedure 904(f). Additionally, pursuant to Pennsylvania Rule of Appellate Procedure 905(a)(2) and Rule 1925(a)(2), when filing a fast track appeal, the concise statement of errors complained of on appeal must be filed simultaneously with the notice of appeal. In this case, the Appellant Mother failed to file and serve a concise statement of errors complained of on appeal with the notice of appeal.

By Order dated September 25, 2020, this Court ORDERED and DIRECTED Appellant Mother to file of record in the Lycoming County Prothonotary's Office and serve upon the Court a Concise Statement of Matters Complained of on Appeal. The Court required Appellant Mother to concisely identify each ruling or error with regard to the September 2, 2020, Interim Custody Order that she intended to challenge on appeal. Appellant Mother was ordered to file and serve this Concise Statement no later than October 2, 2020. The official docket does not have an entry indicating that Appellant Mother's Concise Statement was filed on or before October 2, 2020.

Given that Appellant Mother failed to follow Pa.R.A.P. 905(a)(2) and 1925(a)(2) by filing a Concise Statement simultaneously with the Notice of Appeal, and that Appellant Mother blatantly disregarded this Court's Order which afforded her an additional 7 days to

file and serve the Concise Statement, this Court is unable to meaningfully address any allegations of error by Appellant Mother.

Additionally, this Court notes that even if Appellant Mother had filed the required Concise Statement, the Order from which she is appealing is an Interim Custody Order, which was entered only until further order of court unless amended by the agreement of both parties. "A custody Order will be considered final and appealable only after the trial court has completed its hearings on the merits and the resultant order resolves the pending custody claims between the parties." G.B. v. M.M.B., 670 A.2d 714, 715 (Pa. Super. 1996). It is abundantly clear that this Order merely establishes a temporary custody schedule pending a custody conference and, if necessary, a custody trial. The Order does not resolve all the pending custody claims between the parties and therefore cannot be considered a final order from which an appeal may be taken.

For all of the foregoing reasons, this Court respectfully requests that Appellant's appeal be DISMISSED and the Interim Custody Order docketed September 2, 2020, be affirmed.

By The Court,

Joy Reynolds McCoy, Judge