

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

QUDIRAH ALLEN,	:	
Plaintiff	:	No. 20-20931
	:	
vs.	:	
	:	CIVIL ACTION – LAW
YAMIRE SMITH,	:	
Defendant	:	PROTECTION FROM ABUSE

Date: April 23, 2021

OPINION IN SUPPORT OF THE ORDER OF JANUARY 7, 2021,
IN COMPLIANCE WITH RULE 1925(a) OF THE
RULES OF APPELLATE PROCEDURE

Qudirah Allen, (hereinafter referred to as “Appellant”) has appealed this Court’s Order dated January 7, 2021 denying her request for a Final Protection From Abuse Order. Appellant filed a Motion for Reconsideration on February 3, 2021, which was granted. Additionally, Appellant timely filed her Notice of Appeal on February 8, 2021.¹ A hearing on the Motion for Reconsideration was held on March 12, 2021 followed by a March 19, 2021 Opinion and Order upholding the January 7, 2021 Order. The Court’s rationale for denying the request for a Final Protection From Abuse Order was stated on record on January 7, 2021 following the hearing. Additional rationale is set forth in the Court’s March 19, 2021 Opinion and Order.

Following the issuance of the March 19, 2021 Opinion and Order, the Court entered an Order on March 23, 2021 pursuant to Pa.R.A.P. 1925(b) directing that Appellant file a concise statement of errors complained of on appeal within twenty-one (21) days from the date of the Order, making the statement due on April 13, 2021.

¹ January 6, 2021 and January 7, 2021 fell on a Saturday and Sunday.

Appellant filed her statement on April 21, 2021, eight (8) days after it was due. No extension of time to file the statement has been requested.

According to Rule 1925:

The judge shall allow the appellant at least 21 days from the date of the order's entry on the docket for the filing and service of the Statement. **Upon application of the appellant and for good cause shown**, the judge may enlarge the time period initially specified or permit an amended or supplemental Statement to be filed. Good cause includes, but is not limited to, delay in the production of a transcript necessary to develop the Statement so long as the delay is not attributable to a lack of diligence in ordering or paying for such transcript by the party or counsel on appeal. **In extraordinary circumstances**, the judge may allow for the filing of a Statement or amended or supplemental Statement *nunc pro tunc*.

Pa.R.A.P. 1925(b)(2)(i).

“Whenever a trial court orders an appellant to file a concise statement of matters complained of on appeal pursuant to Rule 1925(b), the appellant *must* comply in a timely manner Failure to comply with a Rule 1925(b) order will result in waiver of all issues raised on appeal. *Hess v. Fox Rothschild, LLP*, 925 A.2d 798, 803 (Pa. Super. 2007), *citing Com. v. Castillo*, 888 A.2d 775, 780 (Pa. 2005). For these reasons, Appellant’s appeal should be quashed because her Rule 1925(b) concise statement was untimely. Should the Superior Court allow the appeal to stand, the Court’s January 7, 2021 Order should nevertheless be affirmed.

In her Concise Statement of Errors Complained of on Appeal, appellant raises the following issues:

1. The Court committed an error of law and/or abused its discretion by finding that Defendant’s behavior would not place a reasonable person in fear of bodily harm;

2. The Court committed an error of law and/or abused its discretion by finding that Defendant's behavior would not place a reasonable person in fear of serious, imminent bodily harm;

3. The Court committed an error of law and/or abused its discretion by finding that Defendant's intentions determined whether his behavior constituted abuse; and

4. The Court committed an error of law and/or abused its discretion by finding that physical contact was required in order to meet the definition of abuse.

The Court's March 19, 2021 Opinion and Order as well as the Order and transcript of January 7, 2021, which are considered the Opinion of the Court in support of said Order, should be affirmed and Appellant's appeal denied. The Opinion and transcript provide a comprehensive analysis of the Court's decisions and findings of fact, and are supported by the testimony from the hearing held on January 7, 2021. This Court will rely on the transcript and Opinion for this appeal. Additionally, the Court highlights the fact that the Court gave great weight to the testimony of an unbiased witness, Mr. Bartholomew. Based on that testimony, along with that of Plaintiff and Defendant, the Court determined that the incident in question occurred as a result of both Plaintiff's and Defendant's actions and, given the circumstances, that Defendant's actions did not rise to the level of abuse such that a reasonable person would be in fear of bodily harm.

The Court notes that Appellant has requested the transcript from January 7, 2021, which the Court Reporter has lodged with the Prothonotary. Should any additional transcripts be requested, the Court Reporter or Reporters responsible for preparation of

transcripts so ordered are hereby advised that under the provisions of the Pennsylvania Rules of Appellate Procedure, the reporter is required to lodge the transcript with the Prothonotary, together with proof of service of notice of such lodgment, on all parties to the matter no later than fourteen (14) days after receipt of Appellant's order for transcript(s) and any required deposit therefor.

BY THE COURT,

Ryan M. Tira, Judge

RMT/ads

cc: Superior Court (Original +1)
Erica Trimble – Court Reporter
Jennifer Heverly, Esq.
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